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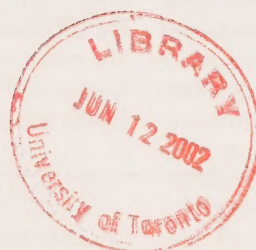
Lundi 27 mai 2002

Standing committee on general government

Waste Diversion Act, 2002

Comité permanent des affaires gouvernementales

Loi de 2002 sur le
rèacheminement des déchets



Chair: Steve Gilchrist
Clerk: Anne Stokes

Président : Steve Gilchrist
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LEGISLATIVE ASSEMBLY OF ONTARIO

ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

STANDING COMMITTEE ON
GENERAL GOVERNMENTCOMITÉ PERMANENT DES
AFFAIRES GOUVERNEMENTALES

Monday 27 May 2002

Lundi 27 mai 2002

The committee met at 1600 in committee room 1.

WASTE DIVERSION ACT, 2002

LOI DE 2002 SUR LE
RÉACHEMINEMENT DES DÉCHETS

Consideration of Bill 90, An Act to promote the reduction, reuse and recycling of waste / Projet de loi 90, Loi visant à promouvoir la réduction, la réutilisation et le recyclage des déchets.

The Chair (Mr Steve Gilchrist): It would appear that routine proceedings have ended. My apologies to the folks who are here to make presentations to Bill 90. Certain folks precipitated certain votes with inevitable outcomes, but unfortunately that occasioned a delay and we're unable, under the rules of the House, to engage in committee work until routine proceedings are over.

I also would like to welcome to the standing committee on general government our newest member, Mr Al McDonald. Congratulations on your election and your appointment to this committee. I'm sure you'll find it very interesting. We're getting you off to a quick start here, having been sworn in scant minutes ago. Welcome to the committee, Al.

Mr Al McDonald (Nipissing): Thanks, Mr Chairman.

SUBCOMMITTEE REPORT

The Chair: With that, our first order of business will be the adoption of the subcommittee report. Might I, in the interest of time, to the extent that it might offend the finer sensibilities of the clerk, suggest that we dispense with the reading? I think you all have a copy of the subcommittee report in front of you. If somebody would move its adoption.

Mr Ted Chudleigh (Halton): I'd be pleased to.

The Chair: All those in favour? It's agreed.

TORONTO ENVIRONMENTAL ALLIANCE

The Chair: That will take us to our first presentation, from the Toronto Environmental Alliance.

I must note to folks we're probably going to have to skim a minute or two off everybody's time, but I'll certainly give you a heads up, and if you could speak a little faster than you'd probably prepared in the interest

of nobody being cut off at 6 o'clock, because that's another rule that is fairly inflexible for us.

Good afternoon and welcome to the committee.

Mr Gord Perks: Mr Chair, members of the committee, it's very kind of you to take the time out today to listen to our presentation.

At the hearings following first reading on Bill 90, the Toronto Environmental Alliance stressed several thematic problems we had with Bill 90. Specifically, those principles were that the bill did not conform to the three Rs hierarchy: it did not promote extended producer responsibility; it did not contain within it the ability to tailor different kinds of programs to different kinds of materials; it increased rather than reduced the amount of bureaucracy required to implement a waste management plan; and, finally, it misallocated the powers of regulation-making and financing between government and industry. It was our view that regulation-making is properly the responsibility of elected officials, not appointed corporations.

That critique still applies, but today I would like to pose a simple amendment that I believe will address those problems and others with the bill. Specifically, I would suggest adding a single clause to the bill, which would state that nothing in Bill 90 would supersede the power of the government to make regulations as set out in the Environmental Protection Act, specifically in section 176.1, subsections (4) and (7) of that act. I'd just like to spend a moment on what those powers within the Environmental Protection Act do.

As to subsection 176.1(4), that is the part of the bill that allows the Lieutenant Governor in Council to make regulations on a variety of waste management initiatives. Specifically, it gives the minister powers to direct municipalities and other waste management generators to develop plans for waste management, to develop specific programs, to meet targets, to submit reports; in other words, to do all of the things that Bill 90 could conceivably ask a municipality to do. The minister already has, as is set out in the Environmental Protection Act, all of those powers.

In the same section, this time subsection (7) though, the Environmental Protection Act gives the Lieutenant Governor in Council the ability to make regulations regarding packaging, regarding the behaviour of industries that package or sell products that could have a waste management consequence. Clauses (7)(a), (b) and (c) define how the province may make regulations on

refillable, returnable, non-refillable and non-returnable containers. Those powers are all in the hands of the government already.

Further on, in clauses (g) and (g.1), it's defined how the minister may require vendors to redeem the deposit to customers. That's already within the hands of the government.

Further on, in clauses (j), (k) and (l), the minister is granted powers to make regulations regarding what kinds of materials can be sold as products for packaging. Specifically, in clause (l.1) the minister has the ability to require that disposable products and products that pose waste management problems be capable of being made reusable or recyclable. The minister again has all the powers that Bill 90 could imagine in that domain.

Clauses (o) and (p) set out that the minister may require an industry or a group of firms to perform a study as to how best those materials could be reused or recycled.

Clauses (q), (r) and (s) set out how the minister might regulate that an industry group or a firm set out a plan for how that material could be captured, recycled, reused etc, and how the industry can develop its own plan and submit it to the minister or the minister may impose a plan of his or her own.

Further, with clause (t) it establishes that the regulations may also encompass targets for what should be achieved for those materials.

In other words, every single conceivable power that Bill 90 supposedly grants to allow us to move forward with our waste management policies here in Ontario is already contained in the Environmental Protection Act.

One has to ask oneself, then, why Bill 90? What does Bill 90 achieve? Here we come to the nub of the problem. The only specific difference between Bill 90 and the currently held powers of the province of Ontario is the creation of Waste Diversion Ontario, a board of directors dominated by industry associations and allies of theirs who, for 15 years, have been frustrating the efforts of this province to move forward with waste management programs.

Specifically looking at the blue box, there are several key stakeholders in the blue box. We have the soft drink industry. The soft drink industry claims they do not have to pay any more for management of the blue box because municipalities make such large revenues from aluminum. The newspaper industry, which is another blue box player, says it actually has a specific exemption in Bill 90 allowing them to provide in-kind advertising instead of funding for the blue box. The paper and paperboard industry, which will present later today, make the argument that if a different accounting method, namely activity-based costing, were used, we would see that in fact they were the ones contributing financially to the blue box and therefore they should not have to contribute any funding.

These are the kinds of associations that will be given the powers currently held by the province of Ontario to devise plans and oversee the implementation of plans for

waste diversion in Ontario. A less likely crowd of suspects I can hardly imagine.

Why, then, would the province in its wisdom put forward a bill that is nothing but a giant step backward? The explanation that's been offered to the public, myself and others is that the effort here is to try to harness market forces, to try to get the private firms, who have the best sense of how to use the market, to use the market to increase recycling.

Bill 90 will not accomplish this, because rather than having an industry funding organization which is tied to a particular group of products make the decision, that same board with a set of interests that undermine the particular interests of certain firms will be in charge. The minister, under the Environmental Protection Act, can already go to the used motor oil industry and say, "Develop a plan and implement it."

In short, I would argue that you need to put an amendment into Bill 90 that says nothing in Bill 90 supersedes those powers as laid out in the Environmental Protection Act.

Finally, I would take the one material in the blue box which the province has direct control over, which is containers for the Liquor Control Board of Ontario—wine, spirits and beverage containers—and put them on a deposit-return system that the LCBO could manage themselves, as a sign of good faith that the province of Ontario is willing to put its own house in order.

The Chair: Thank you very much for your presentation. We appreciate your short and sweet comments here today.

1610

BREWERS OF ONTARIO

The Chair: Our next presentation will be from the Brewers of Ontario.

Ms Marilyn Churley (Toronto-Danforth): Mr Chair, just a point of information: I apologize for being late. Has it already been determined that we don't get to question the deputants?

The Chair: It's already been determined that because of all those votes we'll be lucky to hear the very comments from the deputants.

Ms Churley: OK.

The Chair: Good afternoon. Welcome to the committee.

Mr Usman Valiante: Good afternoon, Chair and committee members. My name's Usman Valiante. I'm director of strategic programs with the Brewers of Ontario. Some of you were here last time when we spoke after first reading and some of you weren't, so I'll be brief in my opening remarks.

The Brewers of Ontario, shareholders of the Beer Store, presented last time and we opened with our performance and our key participation in waste diversion in Ontario. The Beer Store is effectively a co-operative that is home to 60 brewers, both domestic and foreign. We sell over two billion individual units each year, over

seven million hectolitres, seven million hundred-litre units of beer. We generate about 500,000 metric tonnes of waste packaging every year and we recover 495,000 tonnes for that, for an aggregate recovery rate of about 97.6%. The system is predominantly refillable-bottle-based; 91% of all beer sold in the province is sold in refillable bottles or refillable draft beer kegs, and those containers are recovered under deposit. Along with that, all other packaging is recovered. One of the key components of the system is that it is privately funded. There's no taxpayer funding of the system. It's 100% paid by brewers and their shareholders and it's been operated voluntarily for 75 years.

We don't rest on our laurels. Since we were in front of this committee last time, the Beer Store has won an award for its fleet management. We've reduced the idling time of our trucks by 51% and reduced the use of fuel by 32,000 litres. Why that's important is a closed-loop system that distributes and recovers packaging. When you reduce the emissions in energy associated with distributing and recovering your products, you improve the environmental profile of that packaging and of your products themselves.

The last time we were in front of this committee, we were seeking recognition of the Beer Store packaging management system within Bill 90. I guess the fundamental premise of our argument was that as an intrinsic and integral part of waste diversion in Ontario there needs to be a common policy platform. We felt deposit return-reuse, as higher up on the hierarchy than recycling, deserved recognition in the bill and certainly this draft of the bill does that. I'll quickly go through what we feel it's achieved.

It recognizes the exceptional contributions of deposit, refund and reuse to provincial waste management, and it recognizes the principle of full producer responsibility along with the shared responsibility concept for the blue box. It recognizes the Beer Store as a pre-existing self-funded and self-administered analogue to what are called industry funding organizations within the bill. This is a pre-existing one.

It recognizes that the Beer Store operates and administers packaging recovery on behalf of many players. There are 60 brewers in the system right now; over 1,000 different pack sizes. It recognizes 100% producer responsibility and accordingly exempts the Beer Store from fees. However, it does this contingent on ongoing performance, so the Beer Store will have to report to the WDO and to the minister about its ongoing performance. We feel that's more than reasonable.

In sum total, in principle we're quite supportive of the bill. Where we have a comment to make would be that as the bill is enacted, we feel there's one initiative that the government could take that would send a very powerful and positive message. This is something we've been consistent on over the years, and that is, our colleagues at the LCBO should be operating a deposit-refund system as well, and I want to go through some of the points here.

There's about 74,000 tonnes of packaging sold through the LCBO each year. The municipal costs of

that—and this is debatable—are \$10 million a year. That's both the cost of landfill and recycling. For the last couple of years, the LCBO has put \$5 million of funding into the blue box. I would note that that \$5 million that comes out of the LCBO comes out of the same pool of taxpayers' dollars. That revenue that accrues to government from LCBO sales is taxpayer money. Really, the taxpayer is footing the whole bill.

LCBO containers are predominantly glass. Glass is inordinately expensive to collect curbside and recycle. It has few markets and generates no scrap value when broken and colour-mixed. Much of the LCBO glass that's collected for recycling is either stockpiled or simply sent to landfill currently. For example, the glass that's collected in Toronto—euphemistically the city of Toronto will tell you that they're using it to build a road within the landfill. The road's going to be covered and the glass effectively landfilled.

Deposit-return systems, especially ones that are analogous to the closed system that the Beer Store and the LCBO operate in, are the most effective and efficient programs for recovering wine and spirits containers. In 1991 the LCBO had a study commissioned. Its own study found that it was the most effective option for recovering its own containers. Unfortunately, the results of that were misconstrued to the government. I've written a piece on that, if anyone cares to see it.

More recent work indicates they could operate a system that gets 85% of their containers back, at a net revenue to the LCBO of \$2.1 million. That net revenue accrues from the unredeemed deposits on containers that aren't returned, so that's consumers who choose not to return their containers, and the scrap revenue from clear-colour-separated materials, aluminum cans, plastic and the other materials that are in the system.

Some have commented that the \$5 million to set up such a system at the LCBO is high. We would argue that it's insignificant compared to their current retail spending. Total capital spending at the LCBO went up from \$19.4 million in 1995-96 to \$55.7 million last year. Retail capital spending went from \$23.1 million in 1999-2000 to \$40 million last year. So they're spending a phenomenal amount of money on their retail system, yet the cost of their packaging is being borne by the taxpayer.

A couple of points to that: an LCBO deposit system would be entirely consistent with the administrative framework proposed by Bill 90. They would still retain a seat. They would operate as an independent funding organization representing the thousands of brand owners in their system. It completely meets the intent of Bill 90. It increases recycling rates while also creating opportunities for recovery and resale of selected containers for reuse. It does not mean forced reuse.

We've heard from the LCBO, "What about sending bottles back to Europe for refilling?" It doesn't mean that. It simply means recovering packaging for recycling, and if there are opportunities for reuse, the market will determine that. Some of the wine bottles, for example,

sold in the LCBO are worth \$1 and are being imported by small vintners in Ontario from Europe.

We believe the LCBO should assume responsibility for packaging. Of course, when lobbyists come to talk to you, there is always a commercial interest here, so let me be explicit about this one: 18.6% of all beer sold in the retail system in Ontario was sold by the LCBO in the last year. The LCBO continues to invest taxpayers' dollars heavily to increase its beer market share, so it effectively competes with the Beer Store, yet beer container recovery systems are solely borne by the Beer Store. So we recover the beer packaging that's on deposit at the LCBO. We operate a chain of empty bottle dealers across Ontario for the over 200 stores in which the LCBO sells domestic and imported beer but does not offer recovery. Unfortunately, consumers who buy in those communities have to travel to a Beer Store to return their containers, so there's a consumer impact as well.

It sets equitable treatment of imported and domestic beer. There are many imported brands that are solely carried by the LCBO that don't carry a deposit right now. We feel that's inequitable and that those brands are being subsidized.

Wine and spirits deposit-return systems are commonplace and effective. You'll find them in seven provincial jurisdictions and you'll find them in five US states. They're quite effective, especially when run in return and retail and using modern reverse vending equipment.

A couple of final points. There has been strong municipal support for this. I know municipalities support Bill 90 because they see it as a source of potential revenue to cover some of their costs, but they've also been quite vociferous in their support of a deposit-return system for LCBO containers. Again, whatever the funding that goes into municipalities to try to cover the cost of LCBO containers, it is still not an environmentally effective means of recovering those containers. They are largely landfill.

I'll just close off by saying two things. With our system, our consumers rate the packaging management program as one of the core values that they value most in the Beer Store system. That was a survey we just did last year.

In closing, we feel an LCBO deposit-refund system, if implemented concurrently with the enactment of Bill 90, would be a positive fiscal move. It certainly would be a fiscally responsible move and a meaningful and widely recognized environmental initiative.

Those are some of my comments for today.

The Chair: Thank you very much for those comments. Your timing is perfect. We appreciate that.

1620

ASSOCIATION OF MUNICIPAL RECYCLING COORDINATORS

The Chair: Our next presentation will be from the Association of Municipal Recycling Coordinators.

Ms Janine Ralph: I'd like to thank the committee for this second opportunity to speak on Bill 90. I am here today as the chair of the Association of Municipal Recycling Coordinators or the AMRC.

The AMRC is an incorporated, non-profit organization of municipal waste management professionals that was formed in 1987 to address municipal waste management issues such as reduction, reuse, composting and recycling issues. The AMRC represents towns, cities, regions and recycling associations throughout Ontario, comprising approximately 90% or more of the municipalities that actually provide waste diversion services in the province.

For the past five years, members of the AMRC have been actively involved in the development of industry stewardship programs to support waste diversion. We provided expertise to the previous Waste Diversion Organization process in the areas of recycling, composting and household hazardous waste management and had previously worked for a number of years developing a voluntary household hazardous waste stewardship program with industry.

The association was pleased with the amendments that were made to the bill between first and second reading, as they addressed many of the issues that we put before this committee in our presentation last September.

Our members are very supportive of the bill and believe it will help relieve the financial burden that is currently borne by municipalities. We encourage speedy passage of the bill into law and the immediate designation of both blue box materials and household hazardous waste under the new Waste Diversion Act.

Municipalities have been without significant funding support for blue box and household hazardous waste programs since 1995. Last year, municipal taxpayers were responsible for paying in the order of \$65 million to support blue box programs and \$10 million for household hazardous waste programs in the province.

The proposed funding by industry of 50% of the net cost of blue box programs and the potential for 50% funding of household hazardous waste programs, as was actually proposed by the previous WDO process in the report to the minister in September 2000, would provide much-needed financial relief for municipalities, which would allow municipalities to expand or develop new waste diversion programs with the money that would then be freed up. For example, my municipality is looking at implementing broad-based organics diversion programs within the next couple of years. Without funding support, we will in fact have to go to the taxpayer for additional monies to divert a new stream of material.

We recognize that upon passage of the bill considerable effort will be needed to form the WDO, to develop the waste diversion programs for the designated materials and to actually create the industry funding organizations that are required to provide this funding, such that money may not actually be available until sometime after 2002.

But municipalities in Ontario have expressed the need to receive funding support for blue box and household

hazardous waste programs for this fiscal year. In fact, many municipal resolutions that have been passed in the province to date have included that as a clause. We would like the committee to consider in your deliberations the need to provide funding for fiscal 2002.

In our previous presentation to this committee, another issue that we raised was regarding the structure of the WDO board. As proposed, the board includes twice as many industry representatives as municipal representatives.

The AMRC members generally accept this proportion of municipal to industry members on the board, with one proviso: we would like to see the ratio of industry representatives to municipal representatives remain the same over time and not be changed or increased as new industry funding organizations are developed.

We acknowledge that if used appropriately, this act will become a powerful tool for industry stewardship and funding. It will provide the necessary conditions for backdrop legislation that will create a level playing field where all industry players in a given material sector will have a legal obligation to participate and contribute to the fund.

If we had to distill this presentation down to its essentials, our message to you is simply to pass the bill as soon as possible. There has been considerable debate on this bill and it's time to move ahead. We strongly urge all political parties to support the bill and quickly bring it forward for third and final reading.

Again, thank you for the opportunity to comment on the bill today. I think I had the shortest presentation. Your time and attention is much appreciated.

The Chair: Thank you very much for your comments. We appreciate it very much—and your help in bringing us back on time.

Ms Ralph: Yes, we have time for questions, actually.

The Chair: Actually, we don't, because as it stands right now, we have 26 more minutes of presentation than we have time. But thank you very much.

RECYCLING COUNCIL OF ONTARIO

The Chair: Our next presentation, then, is from the Recycling Council of Ontario.

Mr Michael Peterson: My name is Mike Peterson. I'm here today as the vice-chair of the Recycling Council of Ontario. We spoke to the committee earlier. I thought our previous memorandum was particularly memorable because the Snowbirds were flying over at the same time, so not very much of it was heard. It was in writing, fortunately.

Who is the RCO? We're a not-for-profit organization committed to minimizing society's impact on the environment by eliminating waste. RCO is coming up to its 25th birthday. We were created in 1978. Our mission is to inform and educate all members of society about the generation of waste, the avoidance of waste, the more efficient use of resources and the benefits and/or consequences of these activities.

Since our inception we've actively assisted municipalities, corporations, other organizations and individuals in reducing waste. We've been central to the development of waste reduction and recycling policies in Ontario and have earned an international reputation for our work on issues of financing of the blue box and corporate stewardship. Our broad membership includes environmental organizations, municipal governments, recyclers, manufacturers, academia and citizens.

I think it's worth noting that in 1997 and 1998 we led Ontario's Recycling Roles and Responsibilities study and the public consultation process which ultimately led to the creation of the Ontario Waste Diversion Organization. RCO's executive director served on the WDO board of directors and other board members served on various subcommittees.

We continue to play an active role in the area. In March of this year we had a stakeholder information session on Bill 90 and we had over 60 participants, with people from municipal organizations, from industry and from NGOs to participate in an update.

Our comments on Bill 90: we have long supported the concepts of product stewardship and extended producer responsibility for manufacturers whose products and packages end up in the municipal solid waste stream. We believe that the proposed Waste Diversion Act, Bill 90, will provide the legislative structure necessary to pass regulations that will involve a wide range of industries, both financially and operationally, in the end-of-life management of their products.

The success of municipal curbside recycling in Ontario to date can be attributed in part to capital financing programs for municipal governments that were in place in the late 1980s and early 1990s. The industry contribution of one third of municipal capital costs for recycling was encouraged through provincial regulations that required recycling and reuse targets to be met by the soft drink industry. While the province provided some subsidies for capital and operating costs, the regulations did not encourage continued industrial support on operating costs. Once the targets were achieved, most industry and provincial funding of curbside recycling was discontinued, leaving municipal governments responsible for 100% of the costs. Obviously, AMRC, who just spoke, has already brought out that point.

Ontario has one of the most comprehensive curbside recycling systems in North America in terms of the broad range of materials collected and the level of service available to its residents. We also think it's important that there's an incredible degree of buy-in by the residents of this province that should not be disappointed. Unfortunately, as the economics of diverting some materials in the waste stream are marginal and many municipalities are operating under financial duress, some recycling programs are in risk of being curtailed if more stable and reliable sources of funding are not found. We think that Bill 90 offers at least a beginning solution for the funding problem. Accordingly, our submission can be boiled down into two short paragraphs:

We support Bill 90, the Waste Diversion Act, and we urge the provincial government to ensure swift passage of the bill in the current session of the Legislature.

Secondly, as a founding partner in the development of the rules and responsibilities process, and as a board member of the interim WDO, we formally request that a representative of the RCO be appointed to the board of directors of Waste Diversion Ontario as provided in section 3(2) of the act.

Those are our submissions, Mr Chair. I think, along with the AMRC, we're right there on your time frame.

The Chair: I appreciate that very much and thank you for your ongoing interest in this issue.

COLIN ISAACS

The Chair: Our next presenter will be Mr Colin Isaacs. Good afternoon. Welcome to the committee.

Mr Colin Isaacs: Good afternoon, Mr Chairman, members of the committee. Thank you very much indeed for the opportunity to be with you this afternoon. My remarks will be very brief because, as you know, I did present last time around, as did many others. But I feel the concerns that I raised at that time have not yet been addressed and that there's still an opportunity to do so. Hence, I'm here again.

To explain who I am, I'm an environmental management consultant, president of a company called Contemporary Information Analysis Ltd. Though I say so myself, we're probably the leading-edge environmental management consultants in Canada. I'm here representing myself and my company and nobody else.

1630

I don't want to leave you to think, however, that my motives are purely altruistic. My company is involved very actively in helping to export Ontario recycling technologies and services, particularly to the more developed economies of Latin America. The programs that we export are very much built on Ontario's blue box. If Ontario makes foolish decisions with regard to the blue box program, then our clients are going to be turned away from our services and looking more to services from the United States and Europe. So we do have an economic interest in the outcome of this bill and this discussion.

Bill 90 has a very strong focus on recycling. Recycling, though it's a very laudable objective, is not always the best for the environment, and if it's not always the best for the environment, it's sometimes not the best for the economy either.

I think I can best illustrate my point with a couple of real examples. Let me take breakfast cereal as an example. This package is a bag only. The other package I have with me is a bag inside a box, the more familiar breakfast cereal packaging. I think that most people concerned about the environment would agree and understand that the bag-only approach is the environmentally preferred solution. Unfortunately, under the Bill 90 approach, it's likely that this product, the box and bag,

would pay a lower recycling levy than the bag only. Why is that?

In order to achieve recycling targets, the manufacturer of the bag inside the box has a fairly heavy box, that he can very cheaply pay for the recovery and recycling of. Boxboard, after all, is very easy and cheap to recycle. He probably won't have to worry about the bag at all, and that will continue going to garbage. However, the manufacturer that is already using the environmentally preferred solution, the bag only, has no box with which to subsidize his packaging levy, and will have to pay a packaging levy based on the cost of recovery and recycling of a plastic bag only, which is going to be a very expensive endeavour. So the environmentally preferred solution is in fact put at an economic disadvantage.

Let me give a couple of other examples. Wetwipes: same manufacturer, essentially similar products, one in a pouch pack, one in a plastic tub. The same considerations apply. Environmentally, the pouch pack is the preferred solution, but when you look at the cost of recovery and recycling, it's a whole lot easier to recover and recycle the plastic tub than it is to recover the pouch pack. The Bill 90 approach is going to give the person who uses the heavier package that is easier to recycle an economic advantage over the environmentally preferred solution.

I think it's important to recognize the impact on Ontario industry as well. Let's take spreads. This happens to be a jam product from ED Smith, located in Minister Clark's riding of Stoney Creek and using Ontario produce. This happens to be a honey spread which includes imported honey. The honey is in a plastic bottle; the jam from Ontario production is in glass. The levy on the plastic is going to be significantly less than the levy on the glass because the glass is very heavy and it's very difficult to recycle. We've already had reference to that from the representative from Brewers of Ontario. Again, the producer of the import product will likely see a lower levy than the domestic producer who chooses to use glass. Of course, we have to recognize that for the small Ontario agri-food producers, glass is a lot easier to manage and fill than plastic. A lot of small producers may well find themselves at a disadvantage because of the levy that is going to be applied to recycling of glass.

Finally, the problem doesn't apply just to packaging. I have a disposable razor and a reusable razor. I think most people would agree that the reusable razor, which simply replaces a small blade, is the environmentally preferred product compared to the disposable plastic razor. However, under the Bill 90 approach, the cost of recycling used razor blades is going to be very high indeed because they're so difficult to handle. The cost of collecting and recovering those will be high. On the other hand, the cost of collecting and recycling disposable razors is low, so the levy imposed by the industry funding organization and Waste Diversion Ontario is going to support the wrong product. That's the fundamental problem I see with Bill 90.

I believe that in the notes I have circulated I have proposed solutions which would allow the industry fund-

ing organization and Waste Diversion Ontario to take environmental factors into account when setting the amount of the levy and in fact to give a discount or to eliminate the packaging or product stewardship levy for those producers that are improving the environment in other ways. I commend those approaches to the committee.

The Chair: Thank you very much, Mr Isaacs. Thank you for the show and tell as well.

KELLY CLUNE

The Chair: Our next presenter will be Kelly Clune.

Ms Kelly Clune: My name is Kelly Clune and I'm from Orillia. Thanks for the opportunity to be here.

I want to just note that this government has so many very important issues to deal with that really the waste problem is one issue that this government can achieve success in. To succeed, changes must be made to Bill 90.

One essential change would be to include composting in this bill. Composting represents a significant portion of our waste, so when developing a policy to reduce waste, it is essential to include composting. This province needs to work with municipalities and stakeholders to provide composting programs.

My primary focus today is on product stewardship. This is when producers accept responsibility for the life cycle of their product. Bill 90 must set the rules for industry. Product stewardship is essential. When producers are responsible for the life cycle of their product, they become concerned about reusing the end product because it makes financial sense for them to do so. Reduction and reuse are paramount in developing solutions to our waste problem, but Bill 90 appears to focus on recycling and disposal.

As I understand it, Bill 90 currently requires producers to pay a portion of collecting and processing materials if their products are collected through the blue box program. This means that if a producer chooses to produce a product that is not reusable or recyclable, like this frozen juice container, the industry is not responsible for the costs of disposal. The costs are paid by the taxpayer. Many items today are packaged with no regard for the waste issue at all. As you can see, clearly industry packaging has no consideration for our waste problem.

Taxpayers are tired of paying for industry's choice of packaging. Orillia taxpayers pay \$10,000 a year to collect disposable diapers for composting. If a consumer chooses to purchase disposable diapers, then that consumer and the producer must be responsible for the costs of collection and recycling of that product. The city of Orillia has one of the best waste diversion programs in the province, but the cost is high to taxpayers.

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With a population of approximately 30,000, Orillia spends almost \$500,000 to divert materials from our landfill. Revenues from materials collected are about \$150,000. Most of those revenues come from aluminium

and paper. The taxpayers in Orillia then spend almost \$350,000 a year to collect plastic and glass for recycling.

People are concerned about waste. This is evident through the increased participation in recycling throughout the province. People want to do their part to help improve the situation. Recycling has been a great first step. It has allowed us to look at our waste as the resource it is. When we keep materials clean and sorted, they become useful items for us now and for future generations. But people have also discovered through recycling that using a product once and then putting it through a costly recycling program doesn't make financial or environmental sense.

I brought these products along, some of which are collected in Orillia's blue box program. When we look at the products, we see that better solutions can be developed if we focus on reduction and reuse first, as Bill 90 must do. Many products today are packaged in plastic. Since each municipality offers a different collection program, not all plastics are collected for recycling in all communities. This makes it difficult for consumers. They purchase a product with a recycling code on the bottom feeling like they're making a good choice, and when they put it in their blue box it's not accepted. It's almost like false advertising. The plastic product has a recycling code on the bottom, but where is it being recycled? Many people wonder why the plastics industry must produce seven or more different grades of plastic. This only makes recycling more difficult.

Many household products come in plastic bottles that are recycled at a cost to taxpayers. Many of these products could be reused first—water bottles, for example. The fact that we have to buy water in bottles is bad enough, but wouldn't it make more sense to refill these bottles as many times as possible before recycling them? Dish detergent, shampoos, vinegars: it wouldn't be unreasonable to have refillable vats available in stores for people to bring in their bottles for refilling.

Deposit returns have been successful in other provinces. Many provinces developed deposit returns as a means to reduce unsightly garbage left everywhere.

The Chair: We've actually gone over time, so if you could wrap up in the next minute or so, please.

Ms Clune: Yes, I have just another minute there.

Deposit returns make sense and must be included in Bill 90 if we're serious about solving our waste crisis. Standard sized glass bottles could be returned for refilling with pickles, fruits, juice and wines. I spoke recently with a former Solicitor General of Canada, the Honourable Doug Lewis. He asked me why the LCBO doesn't take back their containers to refill them. He suggested that municipalities should tell the LCBO that if they want to have stores in their municipalities, they should take back their containers for reuse. It seems to make sense. Certainly some of the LCBO profits could go into developing sensible solutions. Mr Lewis is right, but municipalities need the support from the province to achieve this.

Currently, taxpayers pay to have pop bottles collected in their blue boxes whether they drink pop or not. When

refillable pop bottles were available, the industry and the consumer shared the cost of collecting the bottles and refilling them. At one time, bottling plants provided jobs to people in communities across the province. Those plants and jobs disappeared when the pop industry chose to centralize their locations. Now they merely ship plastic bottles out and the taxpayers are responsible for cleanup.

Brewers Retail has been a good example of product stewardship. It makes more financial and environmental sense to reuse a bottle seven to 10 times over and then recycle it than to take a bottle and put it through a costly recycling system. But if taxpayers continue to pay the way for industry, there is no incentive for industry to change. Our government must set the rules for industry.

Deposit returns make sense for other items as well. Can you imagine if people received \$5 for every tire they returned? We wouldn't have the problem we do now with tires left in the countryside.

Programs can be developed to recover materials responsibly: computers, construction materials, appliances, mattresses. Municipalities depend on our province to set the standards. Municipalities work hard to provide diversion programs. In many cases, materials are collected with the promise of financial returns, but unfortunately that's not always the case. As materials pile up, municipalities are often desperate for space and may deliver goods without any financial return. Orillia collects film plastic for recycling, but the industry no longer accepts that material. Therefore our film plastics that we work hard to sort from our waste, that are being collected in our blue boxes, are now disposed of in our landfills.

The Chair: I'm afraid you've gone way over one more minute. Sorry, Ms Clune.

Ms Clune: I've just got another paragraph.

The Chair: Just one paragraph, that's it.

Ms Clune: It's interesting to note that Uniplast, a company in Orillia that is a major producer of film plastics, recently expanded their plant, yet we can't find a market for film plastic. Producers must accept responsibility. One simple solution to the overabundance of film plastic would be a province-wide policy requiring stores to eliminate plastic bags. This is not unreasonable. Over the years, we've spent a huge amount of tax dollars looking for places to dispose of our waste or cleaning up after poor waste management practices: the city of Toronto's millions to look for a place to dump their trash hundreds of miles away; Simcoe county presently reconstructing a landfill, at a cost of \$15 million to taxpayers. These are only two examples of the back-ended solutions. Unless we start looking at front-end solutions, we'll continue to scramble at the back end, which will only cost taxpayers more.

Solutions to waste are fairly simple. It's not rocket science. To achieve success, we all need to work together. Our province needs to set the rules, industry needs to accept responsibility for their own products, and business and the public need to participate in municipal diversion programs that are provided.

The Chair: Thank you very much.

PACKAGING ASSOCIATION OF CANADA

The Chair: Our next presentation will be from the Packaging Association of Canada—an interesting juxtaposition.

Mr Larry Dworkin: My name is Larry Dworkin. I'm director of government relations for the Packaging Association of Canada. This was not going to be part of my remarks, but just so you do know, 60% of all packaging is used for the food industry in order to be able to deliver the product in a safe and healthy manner to the consumer. Having said that, now I would like to go on to my presentation.

Our industry, which employs about 65,000 people in Ontario, will obviously be impacted by any kind of levy or tax on packaging in Ontario. We had the opportunity last September to present our concerns to this committee with respect to Bill 90. Since then, of course, the bill has passed second reading and appears headed for passage, with possibly some minor adjustments.

As our organization stated last September, we support in principle the need for greater financial stability for municipal recycling programs. In fact, we have met with some key principals involved in the proposed Waste Diversion Organization about the role of the packaging manufacturing sector.

However, as we said then, as we have said to the WDO and as I will reiterate this afternoon, we are still concerned about the vagueness of the bill as to who pays, how it is to be paid and how much it will cost. To this end, we again strongly recommend that an economic impact analysis be undertaken by the government on affected industries prior to the implementation of the initiative. I don't expect things to be stopped, but it is something we think would be very beneficial.

I'd like to be a little bit more specific about our concerns. We have to take a big view of what's going to happen between now and over the next few years. We forecast, for example, that over the next two years energy costs are going to rise at least 20%, resulting in a 2% decline in per capita disposable consumer income. In other words, consumers will have 2% less income to spend on consumer goods. This will probably have a major impact on our sector.

It is possible that even an additional slight cost increase to consumers, based on a packaging tax or levy, could further exacerbate this problem. I stress the word "could." What is required is the development of an econometric model, utilizing various economic and behavioural inputs, to help determine the outcomes of this levy. By the way, the ministry of industry I believe would be more than willing to help put together a study along this line.

Our industry has clearly demonstrated its willingness to invest in environmental protection and conservation. To answer the question of the critic behind, we have spent hundreds of millions of dollars to reduce, reuse and recycle, but reduce and reuse were the first two priorities under the national packaging protocol.

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Our concern, however, is that our largest trading competitor, the United States, faces no such costs, so we in Ontario could find ourselves at a competitive disadvantage. Again, this may not happen, but at least an economic cost impact will help clear the air.

Our association has members in all material sectors involved in the manufacture of packaging. This includes plastics, glass, metal, paper, composite and wood. If the new packaging levy is weight-based, for example, it could in effect create an artificial trade barrier among the material groups. Products such as a non-beverage glass container could be placed at a major disadvantage, resulting in lower sales and jobs. While we appreciate the difficulty in finding a balanced funding solution—it is difficult, and I know everybody has wracked their brains about it—there could be substantive sector dislocation. I think that's a possibility.

We are also concerned that this bill does not follow the principles of the national packaging protocol, which advocated a process of shared responsibility among industry, consumers and government with regard to solid waste management. As the province's policy now stands, there is really no incentive for consumers to be environmentally responsible. Since industry and municipalities each pay 50% of the cost, there is nothing compelling consumers to increase the use of their blue boxes, for example. At least in many US municipalities, and in some Ontario communities, there are bag-tag programs which provide an incentive for greater consumer participation. In other words, if they are forced to pay for something, then they will probably be more environmentally aware of what should go into the garbage or what should go into a blue box and at least make sure that blue box material goes to the blue box and not out into the garbage.

I realize this bill does not address consumer participation, and I'm thinking maybe what is required down the road is a companion bill along this line. If you really want to reduce pressure on landfill, it seems essential that the consumer must be part of the solution, and this is only achievable through an economic incentive.

Think about it: when you and I go to the store—and I'm a consumer, as you are—when we purchase a product, we own it. I can't come into your house, walk to your fridge and take it out. It's called theft. But at the end of the day you expect industry to become responsible again for something that you or I own. Again, what I'm saying is that I think there is responsibility. We should look beyond and try to maximize as much as we can the efficiencies of the system we're trying to support here.

In conclusion, we hope this new initiative will not only strengthen the infrastructure to allow an increased amount of packaging material to be economically diverted from landfill but will also contain measures that will guarantee that municipalities act in the most responsible way to maximize efficiencies as well.

The Packaging Association of Canada, I reiterate, supports the effort of this committee and welcomes all

opportunities to contribute to the finalization of this legislation.

The Chair: Thank you very much for your comments. We appreciate your ongoing interest.

CORPORATIONS SUPPORTING RECYCLING

The Chair: The next presentation will be from CSR: Corporations Supporting Recycling. Welcome to the committee.

Mr Damian Bassett: Thank you for hearing us this afternoon. My name is Damian Bassett and I am the president and CEO of CSR: Corporations Supporting Recycling.

CSR members include many of the largest manufacturers, brand owners and distributors of food and consumer products in Ontario and their packaging and packaging materials suppliers.

In addition to representing our member companies, I am also today speaking on behalf of the following: the Food and Consumer Products Manufacturers of Canada, the Canadian Council of Grocery Distributors, the Canadian Federation of Independent Grocers, the Canadian Consumer Specialty Products Association, the Canadian Paint and Coatings Association, Refreshments Canada, the Nonprescription Drug Manufacturers Association of Canada, and the Canadian Cosmetic, Toiletry and Fragrance Association.

Together, our members represent the significant majority of all packaging and household special waste materials that will be impacted by Bill 90. We wish to publicly reconfirm the position that we stated to this committee last fall: we strongly endorse this bill and we encourage your committee to recommend its adoption to the government of Ontario for passage this session.

The issue of who should pay for recycling and waste diversion programs in Ontario has been analyzed and debated for more than a decade. Some of my colleagues have commented that the Maple Leafs are likely to win the Stanley Cup before this issue gets resolved. Hopefully, we can have a parade for both activities in the next couple of weeks. It is time to move beyond talking about this problem to solving this problem.

Bill 90 itself is built upon the recommendations developed through a year-long, intensive debate throughout the voluntary WDO that included more than 120 of the most knowledgeable people in the province on this issue. Through the voluntary WDO program, we undertook wide-ranging consultation on these recommendations with municipalities, public interest groups and businesses.

The result of this exceptional effort is a groundbreaking piece of legislation based upon the fundamental principle of shared responsibility, which we believe will return Ontario to the forefront of recycling in Canada and internationally. We also believe it sets the framework for a sustainable and economically and environmentally responsible solution to waste management in Ontario.

Several key changes have been made to Bill 90 since this legislation was first drafted. First, a purpose statement has been added to the bill to specify that it is to provide for the development, implementation and operation of waste diversion programs. The number of non-governmental employees that can be appointed directly by the minister has been increased to two. Language has been modified to clarify that industry payments will equal 50% of the total net costs incurred by municipalities for WDO programs. Blue box waste related to products sold by Brewers Retail Inc has effectively been exempted from the WDO program.

We believe the changes that have been made effectively address the key concerns raised by key stakeholders when this committee first reviewed the bill last fall. We urge you to recommend that the government of Ontario adopt this bill in its current form without further amendment.

We believe that other issues and concerns that have been raised with regard to Bill 90—including definitions of blue box waste, controlling the costs that will be incurred by the Ministry of the Environment and the WDO, the details of a consultation program that will be required of both the WDO and the industry funding organization, questions around implementation and timing, and, finally, advance notice for designating additional categories of waste—can all be addressed through the development of the regulations to follow after the passage of Bill 90 and through the operating agreements to be established among the Minister of the Environment, the Waste Diversion Organization and the various industry funding organizations.

Previous speakers have made some comments regarding levy systems and the unfairness of a weight-based system. I'd like to go on record for this committee and for the previous speakers as supporting that concept. The industry members we represent recognized early on that a simple formula based either on sales or on waste would be patently unfair. They have collectively committed to work as a group to design a funding formula that recognizes, in addition to weight, the recovery of the material in the system and the cost to handle such material in the system, and to design a slightly more complex funding formula that would be seen as fair and equitable to the brand owners who are ultimately responsible for paying the fee.

In order to address some of the questions municipalities are likely to have regarding how our industry sectors will respond, and as a demonstration of our commitment to making Bill 90 a success, we are able to make the following commitments today:

If the minister requests that the WDO establish an industry funding organization to address packaging and household special wastes, our industry sectors will work with all other obligated industries, including those in the printed paper sectors, to create a single, coordinated industry funding organization encompassing all these materials;

This IFO will be created and will submit its proposed program to the WDO no later than 90 days following the request of the WDO;

This program will be based upon a 50-50 cost-sharing formula for packaging and those components of household special wastes represented by the Canadian Consumer Specialty Products Association and the Canadian Paint and Coatings Association as per the recommendations set out in the voluntary WDO September 2000 report to the Minister of the Environment;

The industry funding organization will make initial payments to municipalities within 90 days of approval of the program by the Waste Diversion Organization and the Minister of the Environment;

The program of the industry funding organization will allow for exemption or a minimal compliance cost structure for small businesses, in the interests of minimizing total industry compliance costs.

Bill 90 presents significant challenges for each of our industry sectors, as it will for other obligated industries. Nonetheless, our industries are prepared to get on with the task at hand and do our fair share in maintaining economically efficient, environmentally sustainable recycling and waste diversion programs in Ontario.

The Chair: Thank you very much for your presentation.

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CANADIAN CONSUMER SPECIALTY PRODUCTS ASSOCIATION

The Chair: Our next presenter will be from the Canadian Consumer Specialty Products Association. Good afternoon, and welcome to the committee.

Mr Stephen Rathlou: My name is Stephen Rathlou, and I'm here today representing the Canadian Consumer Specialty Products Association. I have to struggle with that name because we just recently changed it. I'm also manager, regulatory affairs, for SC Johnson and Son, a member of the association with manufacturing facilities in Brantford, Ontario.

Our association, formerly known as the Canadian Manufacturers of Chemical Specialties, was one of the original signatories of the memorandum of understanding which created the voluntary Waste Diversion Organization. I was also a member of the household special waste working group of the WDO, which included both municipal and industry representatives. This committee worked long and hard to achieve a consensus on how to manage HSW in Ontario, and these recommendations were forwarded to the Minister of the Environment in September 2000.

CCSPA represents over 50 companies directly employing over 11,000 people. Our members include many of the largest manufacturers, brand owners and distributors of household products in Canada, most of which have significant operations in Ontario. The goods produced by these companies are familiar to you all. They're in your supermarket and in your kitchens, bathrooms,

laundry rooms and garages. They include personal care products, household cleaners, laundry products, insect repellents, disinfectants, camping fuels, windshield washer liquids and many more. Most of these products come in packages made from steel, aluminum, glass, paper or plastic, many of which are already recycled. The leftovers of a few of these products should be disposed of through household special waste programs when householders can't use them up.

Most of our association members will be contributing through Waste Diversion Ontario to the management of consumer packaging, and some will also be supporting the sustainable management of household special waste or HSW.

Our association requested this opportunity to appear before you to confirm and demonstrate our support for the goals and objectives of Bill 90 and to urge your committee to recommend its adoption by the government of Ontario.

We fully endorse the comments and recommendations that come from the CSR's impressive expertise in blue box waste, and I know I could only echo Mr Bassett's remarks today. Instead, we would like to use this time to focus our remarks on the management of HSW under Bill 90.

HSW is that fraction of municipal waste that requires special management because it presents special risks to the environment or to municipal workers. In total, this material represents less than 1% of the municipal waste stream.

Why do we support Bill 90? We believe Bill 90 will set the framework for a sustainable and economically and environmentally responsible solution to the management of all domestic solid waste in Ontario. In particular, we consider that Bill 90 has the potential to deliver much-needed rationalization and harmonization to the management of HSW.

We're convinced that the most efficient way to manage HSW in Ontario is through the existing municipal waste management system. The municipal sector has the experience, facilities and ongoing programs dedicated to that purpose.

Recently, financial support has been a limiting factor for delivery of these programs. This can be corrected under the WDO program, using the same approach outlined for blue box waste, with industry funding on a 50-50 cost-sharing basis with the municipal sector.

Unlike blue box waste, the primary concern for managing HSW is not simply to maximize recovery of these materials. Rather our efforts will need to be broadened to reduce the generation of HSW that needs management. This will require public and consumer education as well as a clear and careful definition of which products constitute HSW. This will ensure that only those materials that truly require special care are managed through HSW facilities and that we can influence the behaviours of both consumers and manufacturers. These are issues that we look forward to addressing through the permanent WDO to be created under Bill 90.

We are committed to the sustainable funding of HSW programs. Once HSW materials are designated by the WDO, we expect to deliver on this commitment by participating in the development of a single industry funding organization representing packaging, printed paper and HSW materials, through which financial and technical support will be provided to municipalities; providing financial support based on a 50-50 cost-sharing formula with municipalities for packaging and HSW, as recommended in the September 2000 WDO report presented to the Minister of the Environment; and developing a funding formula for HSW management that will allow for exemption or minimal compliance cost structure for small businesses, in the interests of minimizing total industry compliance costs.

Finally, we wish to re-emphasize the commitment of our industry sector to the funding of blue box programs by endorsing the statement made earlier by Mr Bassett.

Thank you for the opportunity to make this presentation and for your attention. If you have any questions, I'd be glad to take them.

The Chair: We'll have to do it after the meeting adjourns, but thank you very much. I appreciate your work on the WDO as well.

MUNICIPAL WASTE INTEGRATION NETWORK

The Chair: Our next presentation will be from the Municipal Waste Integration Network.

Just in case anyone in the room wasn't here when we started, we're a little tight for time, so we're taking a minute or two off each presentation. I apologize, but hopefully you'll be able to get all your thoughts on the record.

Good afternoon, and welcome to the committee.

Mr Todd Pepper: Good afternoon, Chairman Gilchrist and members. My name is Todd Pepper, and I'm here as president of the Municipal Waste Integration Network or MWIN. MWIN was formed five years ago to be the voice and resource for municipal waste minimization and management in the province. Our members are primarily the administrative and policy staff of Ontario's municipalities, who, together with our respective councils and with our colleagues in the Association of Municipal Recycling Coordinators, design and deliver Ontario's municipal waste reduction, reuse, recycling and composting programs. For example, in my day job I'm general manager of the Essex-Windsor Solid Waste Authority and manage the waste management system for the city of Windsor and the county of Essex in the south-west corner of this great province.

The standing committee on general government very kindly offered MWIN an opportunity to speak to you last September, after the first reading of Bill 90. We are very pleased that the committee and the Legislature heard our comments and amended the bill to take our comments into consideration.

The bill you have before you today represents the comments we made, and we are pleased with the bill as it currently is before you. The membership of MWIN wholeheartedly supports the bill as it is currently drafted. We encourage all parties in the Legislature to support the bill and give the bill third reading as soon as possible.

In 2001, Ontario's municipalities sole-funded the blue box and blue bag programs and collectively incurred a deficit—that is, the difference between the cost of delivering the program and the amount of money we were able to receive in selling the materials collected in our blue box and blue bag programs—of \$65 million. While the current revenue picture is looking rosier, with material revenues up slightly, municipalities still expect to incur a \$50-million deficit this year for operating the blue box and blue bag programs. The passage of Bill 90 will result in industry funding to municipalities, both directly and indirectly, for 50% of that deficit or, if it was based on this year, \$25 million. Ontario's municipalities desperately need this money if there is to be any advancement in waste diversion activity in this province.

In the next four months, municipalities will start to prepare their 2003 budgets. The early passage of this bill will ensure that the next steps set out in the bill, as previous speakers have referred to, are taken in time to ensure that municipalities are in a position to receive funding for their 2003 fiscal year.

Finally, we encourage the committee to encourage the Minister of Environment and Energy to immediately designate not only blue box and blue bag materials in the regulations that will follow passage of the bill, but that the minister also designate—and you heard this from the previous speaker—household chemical wastes or household hazardous wastes immediately upon passage of the bill.

Municipalities and industry, as the previous speaker has indicated, have worked co-operatively on that file and developed a 50% funding formula for sharing the net costs of municipally delivered household special waste collection and disposal programs. The designation of household special wastes by the minister will also ensure that municipalities receive funding for those programs in fiscal 2003.

We appreciate your time today, and we look forward to the early passage of Bill 90.

The Chair: Thank you very much for your comments and for your ongoing involvement in this important issue.

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ASSOCIATION OF MUNICIPALITIES OF ONTARIO

The Chair: Our next presentation will be from the Association of Municipalities of Ontario. Good afternoon, Ann.

Ms Ann Mulvale: Good afternoon, Mr Chairman and members of committee. As president of the Association of Municipalities of Ontario, I am pleased to be able to

spend a bit of time with you again on Bill 90, the Waste Diversion Act.

As you may know, AMO represents almost all of Ontario's 447 municipal governments, which in turn means we represent those that serve almost 96% of Ontario's population. So as I appear before you, you should not just be hearing one voice but many municipal voices.

We appeared before you following first reading of Bill 90. We made a further number of comments at that time, and there are a couple that I would like to reiterate today.

As I expect you know, industry and the municipal sector have tried on several occasions under previous governments to develop an industry-based funding model. After a number of tries over more than a decade, the two parties—the municipal sector and industry—finally brokered a mutually acceptable framework through the interim Waste Diversion Organization.

Bill 90 contains many of the recommendations that came from the interim Waste Diversion Organization. The industry and municipal representatives worked hard to build a framework that would work for the respective parties. So it was a bit disappointing when the two parties most affected did not see the Legislature pass this bill during the last session, after this committee's original work on the bill.

For municipal governments, the delay in the bill's passage has meant further delays in funding to help offset our waste diversion program costs. The costs for the blue box, hazardous waste depots and other waste programs have been totally absorbed by the property taxpayer without any help from anyone for far too long.

At the time of this committee's previous consideration of this bill, we asked for some changes to clarify the bill, and we did get those amendments. I am here to tell you that this bill, as amended, is a solid framework based on common ground among the key players. Frankly, if this bill does not get passed and implemented soon, municipal governments will see yet another budget year pass by without financial assistance.

You have heard from the Municipal Waste Integration Network about some of these financial challenges, so I am not going to repeat them. But what I want you to know is that last year some municipal waste diversion programs were in jeopardy. In fact, we heard that a waste depot in northwestern Ontario had to close because there was a significant funding problem at the municipal level. We cannot afford to see this or other waste diversion programs end.

You have heard before from AMO and others of the importance of this bill and what it will mean for municipal governments. There is a lot of pressure on municipal government revenue sources and required expenditures. So this source of assistance is very important, as municipal governments try to fund services to our communities, to support the health and safety of our citizens and our environment.

Our common taxpayer expects us to deal with policy and program needs, not to waffle and point fingers at each other, but rather to find consensus and build com-

promise. This bill is representative of that kind of endeavour.

We have made great progress with the industry on this waste diversion framework. We know that we have to make greater progress on organic waste, as it represents 30% to 40% of the municipal solid waste stream. But this is more difficult to bring back to the producer of the waste. Therefore, we hope the provincial government would be open to helping fund the establishment and expansion of organic diversion programs. Such a province-wide municipal program is expected to cost nearly \$50 million, but we feel we could develop a program that begins this work, which is critical to getting us to the overall provincial waste diversion target of 50%.

AMO has been saying that once this bill is in effect, the two waste streams, blue box and household hazardous waste, be designated immediately so that the financial support of the industry can flow quickly. While this bill has been awaiting the return of the House, industry and municipal governments have continued to work on the mechanics of the related funding formulas.

But there is no doubt that municipalities are watching what is happening to this bill. On their behalf, I ask you to get this bill into the Legislature quickly and that all political parties make this happen. Let municipalities and the industry begin to work under its framework. Let us continue the good work and commitment that both the industry and municipal sector put into many parts of this Waste Diversion Act.

A final comment: I am confident that the Minister of the Environment's work in formulating the regulations to implement the act will continue to involve us. This is groundbreaking legislation and goes a significant distance to sustainable waste diversion in Ontario.

Thank you for the time.

The Chair: Thank you very much, Ms Mulvale. We appreciate your kind comments. Sometimes committees do get things right. I can assure you it wasn't the choice of the committee that the bill did not pass out of the House, but I'm sure after this round, we won't be doing any more talking; we'll be doing more voting.

Ms Mulvale: We wait with anticipation, sir.

The Chair: Thank you for coming before us here today.

WARREN BRUBACHER

The Chair: Our next presenter is Mr Warren Brubacher. Just to remind you, we've got seven minutes for your presentation here today.

Mr Warren Brubacher: Thank you very much for giving me the opportunity to come here today.

Ms Churley: You don't have to lean right into that, by the way. It'll pick up.

Mr Brubacher: Thank you. I had the opportunity to speak on this before, and I appreciated that. My feelings toward it have not changed. I believe Bill 90 is the wrong way to go. One only has to walk down the city streets of Toronto on a windy day when it's recycling pickup day. The streets are basically covered in garbage. There are

plastic bottles blowing up and down the street. It's an absolute mess. To me, putting more money into Bill 90 and trying to build up the blue box is not really the right way to go.

Also, I don't see any really creative ideas in it. I brought along three ideas which would really help out. In Milwaukee, they have recycling depots that are open 24 hours a day, seven days a week, for people to bring in their recycling. Also, in Montreal, Quebec, they've just started a new service called the "toxic taxi." People who don't have cars and only have public transportation can pick up the phone and somebody's going to come over to their home and pick up their toxic materials.

The Chair: Actually, Mr Brubacher, they're very sensitive mikes. Perhaps you could actually lean back. Hansard is having trouble recording you there.

Mr Brubacher: OK, sorry.

The Chair: I'm sure you want your comments to remain on the record here.

Mr Brubacher: OK, thank you, sir. There are also construction recycling facilities where they can recycle all the construction. Twenty per cent of waste is wood. I think Bill 90 is not the way to go. What I suggest is that regulation 27/96 should be totally repealed and a state-of-the-art bottle return system should be brought in.

I picked this up off the Web. The state of Hawaii has just brought in bottle returns. It says here that on average, 75,000 bottles and cans are thrown away every hour in Hawaii. "This bill creates incentives for consumers to recycle." There's a list of 10 reasons. I picked three: encourage the habit of recycling; less resource waste; and eliminate container litter from Hawaii's environment.

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What you can do is what they are doing in New York City. Mayor Bloomberg in New York City wants to cancel all recycling. The city council of New York City has come up with—and I found this on the Web over the weekend—an independent recycling authority. Its mission is to increase the rate and efficiency of recycling as well. This authority will work alongside the New York City Department of Sanitation to expand and monitor all recycling efforts. This is paid for by the bottle return. This money is not wasted. It has been said that bottle returns are taxed—all kinds of lies about bottle returns. But basically all it is to make it work. To me, if you could integrate some of these ideas into Bill 90, this would be really good.

The state of Hawaii went through two long years of battling to get this. Now they have it, and once a state or province gets bottle return, they don't lose it; it's there. I think Ontario wants to be progressive. The citizens say it and our municipalities want it. I think it's time that we listened to the people. One of the main reasons—this is my last point—is broken glass, bottles and everything all over the place. Little kids step in it and they get cut. That's one of the main reasons that Hawaii did it. Next time you go on a trip to Hawaii, you'll be able to get five cents back for your bottles.

I appreciate your time.

The Chair: Thank you very much for your comments, Mr Brubacher. We appreciate your return visit.

PAPER AND PAPERBOARD PACKAGING ENVIRONMENTAL COUNCIL

The Chair: Our next presentation will be from the Paper and Paperboard Packaging Environmental Council.

Mr John Mullinder: Thank you, Mr Chairman. The submission is inside the literature you've already received or are about to receive.

We made an earlier submission on August 21, 2001, and I would refer you to that for further details.

However, in this short submission—and I heard the sigh of relief that I'm the last speaker—I would like to touch on some salient points.

First, PPEC is the national association for the paper packaging industry on environmental issues. We represent packaging mills and packaging converters across the country and represented the industry on the National Task Force on Packaging.

Second, paper recycling is a major industry in Ontario, and the blue box is an important component of that, supplying some 20% of the mills' feedstock. The blue box itself is 75% paper material—old newspapers, old boxes, cartons, fine paper etc—making the blue box essentially a residential paper recovery system.

Third, the paper industry has invested millions of dollars to be able to handle this material, whether through de-inking, cleaning systems or screening systems. We have major capital assets committed and are here for the long run.

Fourth, the paper industry is the major revenue source for the blue box, paying Ontario municipalities roughly \$35 million for used paper materials in 1999, almost 60% of total blue box revenues.

So we think we're important enough to be fully represented on the WDO board of directors, not partially represented through observer status. We are not fully represented, nor are any end market interests.

This is important, because the paper industry has a strong commercial connection to the blue box—the words used in subsection 29(2) to define "stewards."

We are told that "stewards" will be further defined to mean newspaper publishers and/or packaging brand owners or retailers. That doesn't give us a lot of comfort either, since these players do not always pass costs on to the consumer, but rather backwards to their suppliers. There are echoes of Boston here: if we are going to be taxed, we want to be represented.

The method of taxation or levying is of great concern to us. We do not believe in averaging costs over different packaging materials because we, the paper sector, will end up cross-subsidizing our plastic and glass competitors. Nor do we believe in the arbitrary allocation of weight or volume to assign costs to different materials.

These are major issues for us, yet to be regulated, and we don't even know if we're going to have full board representation on a proposed blue box industry funding organization or not.

This brings me to my final point. We are pleased to see that the WDO will now monitor the effectiveness and efficiency—a new word in clause 4(a)—of waste diversion programs. Efficiency has long been a concern of ours, since Ontario now has some 63 materials recovery facilities, when really we need only 20, plus a series of transfer stations. These unnecessary MRFs, public and private, obviously have a major bearing on blue box net operating costs. But there's no linkage between the WDO monitoring efficiencies, clause 4(a), and industry payments to municipalities, the blue box clause, subsection 24(5). Why not directly link efficiency to payment in 24(5)? It should be made abundantly clear that payment depends on efficiency, not payment as of right. There should be a linkage. There's an opportunity here to avoid the writing of blank cheques.

In summary, we understand why Bill 90 was brought forward and we give it qualified support. Our preferred option, however, is not the creation of an industry funding organization specifically for blue box, mainly paper, materials. Tires, paint and used oil are not our issues. We appreciate that they are the government's.

Where blue box paper materials are involved, we would prefer instead that municipalities negotiate directly with the appropriate paper end markets. Long-term contracts are favoured, since they provide some stability in international commodity pricing. This is important because paper materials supply some 60% of total blue box revenues and are the key to its economic viability.

Thank you.

The Chair: Thank you very much for your presentation.

We had one person who had been told she could speak only if we had time. Is Susan Antler with us today? She is not.

You've all done an extraordinarily good job of respecting the predicament we found ourselves under, so I'm going to take the unusual step of inviting the members of the committee—I'll give four minutes to each caucus—if there are any other presenters that are still here that you'd like to ask a question of, I would be pleased to entertain that now.

Mr Mike Colle (Eglinton-Lawrence): Thank you, Mr Chairman. There are so many very, very valuable submissions.

One of the submissions that struck me was the one from the Beer Store, the one considering the double standard that exists in the way empties are treated for beer and how LCBO products are treated. It's written in your presentation that the LCBO is under no obligation, it seems, to follow basic recycling for their products, yet the Beer Store is. What rationale has the government given you for allowing this double standard for LCBO products, especially in light of the fact that I've noticed there's an increasing amount of beer being sold in LCBO outlets? That seems to be a growing part of the market. What rationale or what reasons has the government given you for the LCBO basically being allowed to continue with that lack of refund deposits?

Mr Valiante: We had some discussions a while back with the LCBO. The LCBO has a chairman and a board and it operates to some extent, aside from its allocation of revenue back to the consolidated revenue fund, somewhat autonomously. We've raised it with government. Certainly this presentation wasn't the first time we've brought it to the government's attention, and I think it has received due consideration. No one has said, "No, this is never going to happen."

1730

Mr Colle: But this legislation doesn't in essence require them to follow the return of wine bottles or beer bottles.

Mr Valiante: If I understand this legislation correctly, it sets a framework for setting up stewardship programs. It's my understanding that for a crown corporation you wouldn't need to write a regulation. It's simply a ministerial directive to the chair of the LCBO to implement that, and therefore there wouldn't be any requirement to amend this bill or the subsequent act.

Mr Colle: But what I'm saying is that this bill in essence doesn't change the status quo as far as the double standard is right now.

Mr Valiante: No, and that's why I've come here to make the proposal that this may be something that we think would be worthy to undertake as the bill is enacted.

Mr Colle: The thing that struck me was that last week I received mammoth booklets from the LCBO. They were the most lavish productions of wines and specialty drinks. Talk about the need to recycle or creating waste—three of them came to my office here at Queen's Park. This makes me think even more about the fact that maybe the LCBO has to be looked at and challenged.

Again, I thank you for bringing this to our attention. I might follow up on this.

The Chair: I had said I would divide the time by group. Ms Churley, were you indicating that you had a question?

Ms Churley: No, I have a question for another—

The Chair: OK. Just before you go, though, I believe Mr Dunlop indicated he had a question to the brewers.

Mr Garfield Dunlop (Simcoe North): Yes. Thank you for the book that you gave us.

I've been involved in municipal politics for, including my provincial time, almost 22 years. We've been talking about it for 22 years, the recycling of bottles. Can you name me any other North American jurisdictions that recycle liquor bottles and wine bottles?

Ms Churley: Everybody's saying "recycle"—

Mr Dunlop: Yes, I'm sorry; refill, like we would beer bottles.

Mr Valiante: Virtually every jurisdiction collects at curbside programs, but there are jurisdictions that have deposit-refund systems whereby the containers are recovered through a deposit system and then refilled and/or recycled. In Europe, refilling of wine containers is a fairly common practice. In British Columbia, a lot of the wine containers that are recovered are remarketed. A bit of an issue arose in that the you-vint industry was getting

bottles quite cheaply and the liquor board then started crushing them to prevent them from getting them. There are competitive issues that arise from the fact that you are recovering these containers.

Seven provinces in Canada do recover them under deposit: British Columbia, Alberta, Prince Edward Island, Nova Scotia, New Brunswick, and I think Quebec is another one that does it. So it's a fairly commonplace practice.

Mr Dunlop: So what happens to the containers that are imported from European countries, where they're actually bottled in Europe?

Mr Valiante: It's the same as the Beer Store. Heineken is bottled in Europe; Corona is bottled in Mexico. The bottles come here, they're recovered, they're crushed, they're colour-separated so you don't get brown mixing with green and green with clear, so you can get a reasonable revenue for those crushed containers. We have a fee structure within the Beer Store that is administered to all brewers on a rate sheet for handling those containers, and it's a public document. If anybody wants it, I can send it to you. So the refillable containers get refilled and the recyclable ones get recycled, and they get marketed. The cans are the same sort of thing: they get recycled.

This issue that the LCBO raises of sending containers back to Europe is a bit of red herring. Immediately people react, "Oh, no, you can't do that." That's not the point of this. If you talk to small vintners in Ontario, they'll tell you that a lot of the containers that are being sold in the LCBO—for instance, Italian wines that come in a very expensive bottle, and they're actually having to order bottles from Milan and have them sent to Ontario. Why not recover these bottles and just let the free market operate: recover these bottles, let a bottle-washing operation start up—certainly every small brewery in Ontario is washing bottles; this could be an additional business—and sell those bottles. I mean, some of them are worth up to \$1 apiece, so you're paying \$12 a case for bottles. It could be quite a lucrative business. I know there were a couple of ventures in the last few years that tried it, but we just can't get unbroken high-quality bottles through the curbside program.

The Chair: Ms Churley, do you have anyone you'd like to question?

Ms Churley: I do. I'd like to have Mr Perks come, because I did want to ask some specific questions around his suggestions and this bill before us.

I think it goes without saying that there's some urgency, particularly from the municipalities. You heard Ann Mulvale once again pressuring us to move this along very quickly. I think it's safe to say that the bill is probably going to pass. I do take responsibility for having held it up. I wanted to get it back to committee because I have some serious concerns about the bill as it's now written.

What I wanted to ask you is this. I shall be trying to put in some new amendments on Wednesday, in the short time that we have allocated. But you were talking about the fact that the minister now has the ability to do, I

believe you said, all of the things that are within this bill and more. Is that what you were saying?

Mr Perks: Yes. The Environmental Protection Act, specifically the section that lays out what regulatory powers are available to the province, contains in it abilities to direct municipalities to do certain things for waste management programs, to direct people who manufacture or market products and packages to do certain things. All of the plans that Bill 90 envisions could be done under those. They could then be either developed jointly or independently by the minister and/or the firms involved. All of that is already spelled out in the Environmental Protection Act.

Ms Churley: So my question would be, if this bill goes ahead as is, with the changes that have been made since first reading and committee hearings, should it go ahead without the amendments I will be making on Wednesday, which will once again attempt to improve the bill and deal with some of our concerns? Would it impede somehow the passing of this bill, the ability for us to continue to pressure the government through the ministry to make those changes in-house? My concern is that if it goes through as is and the municipalities have some comfort that at least there's a program up and running, because there hasn't been anything since 1995, will we still be able to continue, or will it somehow impede that movement to make improvements?

Mr Perks: I have several specific concerns with the way the bill is constructed that I think will actually lessen the ability of the province of Ontario to assist municipalities. First of all, the bill as it is written does not allow the minister to develop a plan or even to amend a plan brought by the IFO, the industry funding organization. The only abilities given to the minister are either to accept or return the plan. So the minister can't alter the plan. That's one.

The second one is that once an industry funding organization is established and approved and so on, I would imagine the negotiations, the dispute settlement, all of those powers fall to the Waste Diversion Organization board of directors, where the province of Ontario only has one seat as an observer, a non-voting seat. In other words, the power of the province of Ontario to increase the amount that has to be provided to municipalities, to move the funding faster, to change it as new product types come on the market and so on, would suddenly rest with this appointed board where the government has no power.

The example was given a moment ago of the LCBO. My concern is that if the LCBO is included with the blue box industry funding organization, a shared model with different materials cross-subsidizing each other, and gets approved as an industry funding organization, is approved by the WDO board, handed to the minister and the minister looks at it and says, "This doesn't meet our goals in terms of what we'd like to do with glass," but has no ability to amend it or to single out the LCBO as something that they want to do—and several of the parties on the board of the WDO actually have intervened on many past occasions to prevent the LCBO from going

to a deposit-return system. The city of Toronto developed a bylaw that would have put LCBO bottles on a deposit-return system. Corporations Supporting Recycling, who will have the largest voting bloc, ran ads in Toronto newspapers, went down and lobbied Toronto city councillors and did everything they could to prevent the LCBO from being on a deposit-return system.

Ms Churley: Because that would take away some of the funding?

Mr Perks: No, I don't believe it's because it would take away some of the funding. I think their interest is to make sure that the precedent for refillable and deposit-bearing beverage containers does not spread. The most powerful members of the CSR are the soft drink industry and the aluminum industry, which have a very specific interest in making sure that deposit-return and refillables don't spread because that would cause them to have to bear the full cost, not just 50% of the cost, of managing those containers.

Ms Churley: So then—

The Chair: Very briefly.

Ms Churley: Very briefly—this bill could require an amendment that this body could not supersede the minister's ability to step in. I believe I made an amendment to that earlier, but a stronger amendment that allows the minister to still have—

Mr Perks: The specific recommendation I made—and because of the short amount of time I was forced to do it without being able to consult with counsel—would be an amendment that states that the powers described in section 176.1 of the Environmental Protection Act are in no way undermined by this bill. I would have to speak to a lawyer to get specific wording.

Ms Churley: That's helpful. I'll put forth such an amendment and maybe that can help us with this particular issue. Thank you.

The Chair: Mr McDonald, you indicated you had a question as well?

Mr McDonald: Actually my question is for Ms Mulvale from AMO.

The Chair: She left. Are there any other representatives from AMO with us here today?

Mr Pepper: I have appeared on behalf of AMO before. We have mutual interests, so I will attempt to answer the question.

The Chair: That would be fine.

Mr McDonald: AMO represents nearly all the municipalities in Ontario. Given my experience and the pressures municipal councils face in funding different programs, would you say that most municipalities support Bill 90? Would you say it's almost unanimous that they would support this bill?

Mr Pepper: You've really heard from all three municipal organizations today. You've heard from the political organization, which is AMO. You've heard from the senior administrative and policy group, which is MWIN. You've heard from the operating group, the Association of Municipal Recycling Coordinators. You've heard from all of us and we all say the same

thing. We support the bill as it's amended. We ask you to pass it.

The Chair: With that, considering we have a vote in a couple of minutes, I want to thank very much everyone who took the time to make a presentation and come out

to the committee today. We will be deliberating and giving clause-by-clause consideration this Wednesday.

With that, the committee stands adjourned until 3:30 Wednesday.

The committee adjourned at 1744.

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G-2



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Third Session, 37th Parliament

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Official Report of Debates (Hansard)

Wednesday 29 May 2002

Journal des débats (Hansard)

Mercredi 29 mai 2002

Standing committee on general government

Nutrient Management Act, 2002

Comité permanent des affaires gouvernementales

Loi de 2002 sur la gestion
des éléments nutritifs

Chair: Steve Gilchrist
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LEGISLATIVE ASSEMBLY OF ONTARIO

ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

STANDING COMMITTEE ON
GENERAL GOVERNMENTCOMITÉ PERMANENT DES
AFFAIRES GOUVERNEMENTALES

Wednesday 29 May 2002

Mercredi 29 mai 2002

The committee met at 1540 in committee room 1.

NUTRIENT MANAGEMENT ACT, 2002

LOI DE 2002 SUR LA GESTION
DES ÉLÉMENTS NUTRITIFS

Consideration of Bill 81, An Act to provide standards with respect to the management of materials containing nutrients used on lands, to provide for the making of regulations with respect to farm animals and lands to which nutrients are applied, and to make related amendments to other Acts / Projet de loi 81, Loi prévoyant des normes à l'égard de la gestion des matières contenant des éléments nutritifs utilisées sur les biens-fonds, prévoyant la prise de règlements à l'égard des animaux d'élevage et des biens-fonds sur lesquels des éléments nutritifs sont épandus et apportant des modifications connexes à d'autres lois.

The Chair (Mr Steve Gilchrist): Good afternoon, everyone, and welcome to the standing committee on general government for the purpose of considering Bill 81, routine proceedings now being over.

I'll ask Ms Churley to start things off very quickly with a motion about what we're actually doing this afternoon.

Ms Marilyn Churley (Toronto-Danforth): I will read the motion into the record, because of changes in our procedure, and then I have a brief point of order.

I move that, notwithstanding the report of the sub-committee on committee business that was moved and adopted by this committee on Monday, May 27, 2002, the standing committee on general government will consider Bill 81, An Act to provide standards with respect to the management of materials containing nutrients used on lands, to provide for the making of regulations with respect to farm animals and lands to which nutrients are applied, and to make related amendments to other Acts, as follows:

1. Public hearings are to be held on Wednesday, May 29, 2002;
2. Witnesses that wish to appear before the committee will be scheduled as they call in. Organizations will be given 20 minutes and individuals 10 minutes to speak;
3. Clause-by-clause consideration is to be held on Monday, June 3, 2002;
4. The deadline for amendments is to be Friday, May 31, 2002, at 12:00 noon;

5. The deadline for written submissions is to be Thursday, May 30, 2002, at 6:00 pm.

The Chair: Any debate?

Mr Toby Barrett (Haldimand-Norfolk-Brant): Mr Chair, I just want to draw to your attention that I am subbing as parliamentary assistant to the Minister of Agriculture. I am also very pleased that the Minister of Agriculture is here for some of the proceedings this afternoon, given her long-standing interest.

The Chair: Thank you very much.

Any further debate on the motion?

Seeing none, I'll put the question. All those in favour of the motion? Opposed? It's carried.

Ms Churley: I just want to raise a brief point of order. We're back here because the NDP has had some problems with this bill. As you know, although we are supportive overall, we have some concerns, and we're coming back to make some amendments, particularly in light of part two of the Walkerton report.

I note that in section 2 in the binder we have just received—and I find this highly unusual; I presume this is from the ministry—there are a couple of pages of quotations supporting passage of Bill 81 and several pages of news releases from people supporting the bill. What is missing from here—and it should be included in the committee, which is supposed to be balanced, as we hear from everybody—are some of the concerns raised by people about the bill.

I just want to point out that I have a problem with that coming to a committee from a minister's office without the balanced approach. We all agree that we heard different sides to some of aspects of this bill, and that is not included in the information that is being provided to the committee. I just wanted to make a note of that.

The Chair: Thank you, Ms Churley. I'll certainly take—

Mr Steve Peters (Elgin-Middlesex-London): On a point of order much along the same lines, Mr Chair: Can we be assured by the minister or possibly the parliamentary assistant that all correspondence that has been sent to the minister's office, either in support or not in support of this legislation, has been included in this binder?

Mr Barrett: Mr Chair, it's my understanding that correspondence, certainly very recent correspondence, has been included. I think you would find this under tab 2. I think the expectation is that certainly any material

that comes in to the clerk would be forwarded to this committee.

Mr Peters: On the same point, Mr Chairman: Are we assured that we have all the correspondence sent to the minister that has been received, say, in the past day or so?

The Chair: Before I ask Mr Barrett to respond, it's not within the purview of this committee to in any way intrude in the normal affairs of a ministry. The instructions to correspond with the clerk are always posted on the parliamentary channel.

I can give you the assurance—you should have some other information before you—and in fairness to you, because you weren't here two days ago, there were some items of correspondence received on Bill 81 that were distributed to the Liberal members on that day. That included both positive and negative observations. So I have complete faith that the clerk has distributed every piece of correspondence that she has received, and that would have been the instructions posted on the parliamentary channel.

Mr Peters: But you can't guarantee that we have everything the minister has received.

The Chair: I don't think anyone has ever suggested that is a protocol that a committee would involve itself in. I would just say to Ms Churley that I don't have a copy of the binder here but I would think, just taking the very high-level approach to this, that when the day comes that you want to talk about your Safe Drinking Water Act, it's not likely you would be standing up and articulating the opposing point of view. Recognizing that if the ministry has prepared an information booklet, it is only appropriate the ministry would be advancing the ministry position. I don't think we can lose sight of the fact that it is the clerk who is the neutral arbiter of items such as this. There is an alternative—and I'm certainly not trying to be cute when I say this—and that would be that the ministry not share its perspective at all with members of the opposition.

Ms Churley: I'm sure we're all anxious to get on with the hearings and I'll just say this: it's my understanding that the clerk was not asked to complete this binder, that she wasn't aware of some of the material in there, and I would still say information provided to a committee, as opposed to the government or an individual member, should be fair and all of the correspondence representing all the different views should be in the binder. This particular binder has only the positive letters, faxes and press releases urging the government to get on with the bill and expressing disappointment it didn't pass, that sort of thing. I find that not useful and not fair to what's supposed to be a committee weighing all of the evidence we've got.

The Chair: Again, Ms Churley, let's not get off on a tangent here. The fact of the matter is, that is the ministry's presentation. The ministry has in fact, and the minister—

Ms Churley: I'm expressing my view on this—

The Chair: I hear your view, but I don't know if it's realistic that you would expect Hudson's Bay to be promoting Wal-Mart.

Ms Churley: I'm expressing my view and I think it's also highly unusual.

The Chair: Duly noted. With that, let's move on to the hearings, if we may.

COUNTY REGIONAL ENVIRONMENTAL EVALUATION KO-ALITION

The Chair: Our first presentation will be from the County Regional Environmental Evaluation Ko-alition. Good afternoon and welcome to the committee. Just to be fair to all the participants this afternoon, because routine proceedings went a few minutes late, we'll shave a few seconds—it will probably be only half a minute—off each presentation. In case folks don't know, committees are not allowed to proceed after a vote is called and we expect there will be a vote at 5:50 this afternoon. Please proceed.

Ms Linda Roberts: Hi. I'm Linda Roberts, the chairperson of CREEK, which, as you have stated, is the County Regional Environmental Evaluation Ko-alition. "County" refers to Prince Edward county. Anybody who lives in Prince Edward county always refers to it as "the county," and hence the name. On behalf of CREEK, I'd like to thank you for the opportunity to be here today, even though I had to really hustle to get here.

The reason CREEK is in existence is that it's a group of residents at the east end of Prince Edward county—I know you probably won't be able to see this map, but it helps me explain things. It is kind of large. Prince Edward County is an island. This is the eastern tip of the island. On the north side is a body of water called Adolphus Reach. On the south side is Lake Ontario. There is a cove called Prinyer's Cove. Immediately southwest of Prinyer's Cove is a large marsh which is designated a provincially significant environmental wetland. Immediately southwest of the provincially significant environmental wetland is an intensive livestock operation. This livestock operation has two barns holding almost 3,000 hogs and an open pit with a capacity of a million gallons of raw manure that is sitting right next to the wetland, which is obviously a matter of concern.

Also in terms of the geology of the region, Elmbrook clay and Solmesville clay is the area where the effluent is spread and these clay formations are described as having imperfect external and internal drainage. The spreading of the raw manure usually occurs between 90-day and 120-day intervals and it is spread in the areas that are marked yellow here, so the fields are just to the west and in part impinging on the wetland and just to the east and impinging on the wetland. When you're dealing with a million gallons of manure going in this kind of area, there are some really very serious concerns.

1550

We are concerned about respiratory problems due to airborne particles, but more particularly we are con-

cerned about the water. There are approximately 180 houses in the area, all of which are dependent upon wells—some drilled and some shore wells. Obviously there's concerned about that. Also in the cove that I pointed out to you is a very popular boat mooring site, and visitors from all over the province and from the United States come and moor to enjoy the beautiful area and stay as long as the smell's not too bad. If they stay, they also tend to swim in the cove. The marsh I showed to you drains into that cove and the marsh is next to the effluent spreading. So it's the water that really concerns us.

CREEK really wanted legislation to regulate this type of industry and we were really pleased when Bill 81 was proposed, but when we actually saw Bill 81, we were very disappointed with the bill as it currently stands.

We made a presentation in September 2001 in Peterborough. I'll just review the concerns we expressed at that time very briefly.

We were concerned that the bill includes traditional farms which are regulated under the Farming and Food Production Protection Act and the Environmental Protection Act, and sewage sludge, septage and paper sludge, which are already managed under waste certificates of approval. We believe the legislation should follow the lead of the United States of America, where the Environmental Protection Agency recently announced that large agricultural operations will be required to have permits under the national pollutant discharge elimination system, as factories already do. We also believe Bill 81 should limit its focus to intensive livestock operations.

Our second concern was that we were dismayed the regulations did not accompany the legislation. Without the regulations this is a hollow piece of paper to us. It doesn't help us in any way.

One of the areas in part II, subsection 5(2) of Bill 81, suggests there be an assessment but it doesn't say "hydrogeological" assessment. We believe it's very important that any assessment of ILOs involve a hydrogeological assessment.

We believe, in terms of places like Prinyer's Cove where there's swimming going on near an ILO, that the Ministry of Health should be involved to test the water and post warnings on a regular basis, as is done in provincial parks. We believe that monitoring, enforcement and mediation should be handled by provincial agents.

The legislation recognizes the possibilities of "danger to the health and safety of any person," "impairment or serious risk of impairment to the quality of the natural environment for any use that can be made of it," "injury or damage or serious risk of injury or damage to any property or to any plant or animal life," yet states that "a provincial officer may exercise the power to enter and inspect land or premises without a warrant." We believe that the wording should be changed to "a provincial officer shall exercise the power conferred by this section to enter and inspect land or premises on a regular, prescribed basis without a warrant."

Without the requirement for detailed records and regular auditing by provincial officials, compliance can be expected to be poor or non-existent.

I've gone on far longer than I intended to.

My main points that I wanted to get to, actually, were that in view of the publication of Walkerton part two from Justice O'Connor—and I won't have to repeat it if you did receive this from me. It was sent to the clerk. I brought out the recommendations that Justice O'Connor made that really address more of CREEK's concerns than Bill 81 does.

I do believe it's incumbent upon the government to take the time to examine the Walkerton report and try to incorporate as many recommendations as it can into Bill 81 and deal with this as a source water issue.

Finally, when it comes time for the regulations to be developed, I would also request that Justice O'Connor's comments be respected where he says, "Consultation should err on the side of inclusion, both regarding which parties are consulted and regarding the level of involvement in the process. Consultation should never be pro forma...." I request that for the development of the regulations. Thank you.

The Chair: Thank you very much for your presentation. We appreciate your taking the time to come before the committee today.

ONTARIO PORK

The Chair: Our next presentation will be from Ontario Pork. Good afternoon and welcome to the committee.

Mr Clare Schlegel: Thank you for this opportunity to make a presentation. I am Clare Schlegel, chair of Ontario Pork. With me today is Dennis Zeckveld, chair of our environment committee.

We would like to thank the members of the committee for giving us this opportunity. However, this is the second standing committee of the Legislature that I have addressed in less than a year on this bill. We are disappointed by the slow progress of the bill to date.

Ontario Pork, as one of the member agricultural organizations in the Ontario Farm Environmental Coalition, is committed to the principles of this legislation and its timely passage.

From the outset I want to emphasize that we do not want any amendments to the proposed Nutrient Management Act. The swift passage of this act is imperative for the continued viability of the agricultural sector to ensure that province-wide standards are in place.

We are looking forward to participating in the public consultations this summer on the regulations committed to by Premier Eves in the House this week. As such, I want to focus my presentation on the concerns I have heard raised with respect to Bill 81, as well as the uncertainty created by the absence of standardized and regulated nutrient management practices across this province.

First I would like to tell you a bit about our organization, Ontario Pork. Ontario Pork represents the province's 4,200 pork producers in many areas, including marketing, environmental issues, research, animal care and quality assurance programs. In 2001, Ontario's pork producers marketed 4.75 million hogs, valued at \$813 million. The total pork industry is estimated to be worth \$5.6 billion and 35,000 jobs to the Ontario economy. We're a large employer.

Ontario Pork was one of the founding members of the Ontario Farm Environmental Coalition. In this capacity, we have been working together with other agricultural organizations for over a decade to address issues related to soil erosion, nutrient management, water quality and environmental farm planning. To date, over 20,000 farms across Ontario have voluntarily put environmental farm plans in place.

Our commitment to the environment extends beyond our work with the coalition. Pork producers of this province already have committed about \$2 million to research on environmental issues to date.

Some of the successful research projects our funding has supported include:

—Compilation of the largest on-line research database on environmental agricultural practices in North America accessible to anyone—farmers, governments, the public. If you go to our Web site, you're certainly welcome and encouraged to view that site.

—A University of Guelph study of community perceptions on livestock and agricultural intensification.

—The Enviropig, and this has made worldwide news—a biotech breakthrough at the University of Guelph in reducing the environmental impact of manure produced by hogs.

—An evaluation of concrete liquid manure storage systems in southwestern Ontario to assess their potential impact on groundwater, by the University of Waterloo.

Now I would like to address some of the concerns raised about Bill 81 in its current format.

Successful farmers in Ontario pride themselves on being stewards of the land. They know that the fundamental building blocks of agriculture are clean water and healthy land.

Since the Walkerton tragedy two years ago, the province, municipalities, environmental organizations, farmers, the public and media have recognized the fundamental need for the consistent application of clean water standards and enforced regulations across the province.

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Ontario Pork recognizes that regulated environmental farm plans are a key component of the long-term sustainability of rural communities and the agricultural sector. In his recent release of the report of the Walkerton inquiry, Associate Chief Justice O'Connor states, "there is no binding requirement for farmers to develop or follow nutrient management plans (although this situation may change under the proposed Nutrient Management Act)." That's on page 132. His report recommends

that all large or intensive farms be required to develop binding individual water protection plans consistent with the source protection plan. We believe our environmental farm plan will address this issue.

I have heard comments from members of the opposition that a number of amendments should be made to the Nutrient Management Act to incorporate Justice O'Connor's recommendations. I would like to remind committee members that his report specifies the shared goals between his recommendations and the intent of the Nutrient Management Act. He clearly states, "With respect to nutrient-containing materials, the act, if passed in its present form, would certainly provide the province with the authority to create the tools it would need to develop the farm water protection and planning system that I am recommending." That's on page 138.

Bill 81 is enabling legislation. The regulations will prescribe the enforceable standards. Justice O'Connor recognizes that the act's effectiveness will depend on the development of appropriate regulations. He calls for the province to consult with farm groups, conservation authorities and other affected groups in developing regulations for the protection of drinking water under the act. Ontario Pork agrees with Justice O'Connor that the development of the regulations under Bill 81 are the essential tools to ensure that enforceable standards are in place for nutrient management and water protection on farms across Ontario, and that these regulations be developed in partnership with farm groups.

Farm organizations are actively preparing for their role in the development of the provincial water regulations. Ontario Pork, together with the Ontario Cattlemen's Association and the Ontario Sheep Marketing Agency, are hiring a water specialist to provide scientific advice on water standards. That's happening right now.

As farmers, clean water is not only important for us to feed our livestock and irrigate our crops, but we run our businesses from our homes. We drink from the same local water sources, so the quality of the drinking water is of great concern to our families and our communities. In the wake of the Walkerton report part two, it is now more critical than ever to move forward on this important piece of legislation. Further amendments to the bill will only delay its passage and create instability in our industry across municipalities in Ontario.

I would like to take a few moments to describe what a delay will mean to us. We are pleased that the bill provides for province-wide standards that will identify the requirements and responsibilities for farmers, municipalities and others in the business of managing nutrients. Bill 81 means that Ontario Pork can look to a regulatory environment that provides a province-wide, comprehensive, clear and effective approach to managing nutrients. The implementation of this legislation will eliminate the current inconsistent patchwork of best practices and by-laws. The lack of province-wide standards affects the ability of local farmers to manage their operations, to plan for the future and to compete in a global marketplace. Uncertainty is also stifling reinvest-

ment in hog operations, which is estimated at approximately 10% of the annual revenues from hog sales. An estimate based on 2001 revenues would be over \$80 million.

Justice O'Connor recognized the importance of avoiding situations where there may be local initiatives to create or enhance by-laws. His 14th recommendation is as follows: "Once a farm has in place an individual water protection plan that is consistent with the applicable source protection plan, municipalities should not have the authority to require that farm to meet a higher standard of protection of drinking water sources than that which is laid out in the farm's water protection plan."

In conclusion, Ontario Pork is concerned about protecting the environment and the long-term well-being of Ontario's farms and Ontario's rural communities. We want to be certain we can reinvest in our farms and operate them with confidence and with pride. As a farmer, I not only work on my land, but I live on it. So it is important to me and my family that proper safeguards are put in place for the future of my business, the health of my family and the health of my community.

I want to assure the members of the committee of our commitment to work with legislators and the government to make this legislation a success. I encourage you to move forward on the passage of this bill as quickly and expeditiously as possible. We want to begin to work with all parties to develop the regulations.

We would be pleased to answer any questions you may have at this time. Thank you very much.

The Chair: Thank you very much. Just before I take some questions, you made a comment earlier as to the previous presenter. I wanted to put on the record our thanks to folks for responding very quickly. The government House leader had made an offer to the two opposition parties, and we all agreed not to delay the passage of the bill, but to allow one more opportunity for input at this final stage, the trade-off being more time in committee hearings and one hour of third-reading debate, instead of one day of third-reading debate. That agreement was reached between the three parties, but it does not bode anything other than that we wanted you to have a chance to make your final input here.

We've just encountered another problem. There's actually a group scheduled at 5:15. Let's say that we've got four minutes for questioning. What would the committee prefer: all the time for one and we'll do that rotation, or do you want me to split it into two-minute groups?

Mr Barrett: We'll rotate.

The Chair: Yes, we'll rotate, but do you want to rotate in two minutes, or shall we give all the time to the Liberals this time?

Interjections.

The Chair: OK.

Mr Peters: We're going to split it?

The Chair: No, You've got four minutes.

Mr Peters: OK, thanks. I appreciate you making those comments too, that it was all three parties who got together to ensure the quick passage of this legislation.

You talk about the amendments, Clare. What's your opinion on this amendment: "that in enforcing this act, the minister shall at all times consider the desirability of using economic incentives to encourage compliance"? Is that an amendment you have a problem with?

Mr Schlegel: I'm going to comment in response to Mr Gilchrist. I appreciate the explanation of how much time it will take, and look to Dennis to respond to the question.

Mr Dennis Zeckveld: I think one of the issues we've raised in other consultations and whenever we've met with OMAF staff is that we're very concerned about the cost of implementation of regulations, depending on what the regulations are. If you look at small and medium farms, the impact of this legislation is going to be hardest on them, and our position has been that there has to be an economic impact study done before regulations are put in place to have a clear understanding of what the cost is going to be, and that there be some form of incentives available for producers of agriculture to meet those regulations.

Mr Peters: That's why we made that amendment, so it was clearly defined in the act that economic incentives were important to you, like everybody else.

Subsection 3(1) of the legislation talks about designating individuals responsible for the enforcement of this act. Do you have any concern that these employees be true government employees? What would your opinion be if the services for inspection were contracted out?

Mr Zeckveld: I think our position has been that we would like to see the government involved with this process, at least for a period of time. The important thing for us is that adequate training take place for anyone, that they have a full understanding, a clear understanding, of agricultural issues, and that whoever enforces them understand the biosecurity protocols of farms. Those are the things that are important to us. For us, right now, OMAF has those capabilities.

Mr Peters: That's another amendment that we have put forward, that we want them to be employees of the Ministry of Agriculture and Food or employees of conservation authorities and not be contracted out. We want those same assurances that you want.

On the question of the ability to pay, I have a number of pork producers in my own riding. I have everything from small operations to large, vertically integrated companies. On the question of incentives, are you at all concerned that the potential exists, because of this legislation and the pending regulations, that small operators could be legislated out of business?

Mr Zeckveld: Just rephrase that really quickly.

Mr Peters: Are you concerned that, with this legislation and the regulations, small operators could be potentially legislated out of business?

Mr Zeckveld: Depending on the regulations, we have some concerns that, yes, the impact is going to be hardest on the small- or medium-sized operations.

Mr Peters: Do I have any time, Mr Speaker?

The Chair: No.

Mr Peters: No? OK. Thank you very much gentlemen.

The Chair: Thank you both for coming before us here today.

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ASHFIELD-COLBORNE LAKEFRONT ASSOCIATION

The Chair: Our next presentation will be from the Ashfield-Colborne Lakefront Association. Good afternoon and welcome to the committee.

Mr Mike McElhone: Good afternoon, Mr Chairman, Ms Churley and gentlemen. Thank you for the opportunity to meet with you today and share some final thoughts on Bill 81. My name is Mike McElhone. I am the environmental team leader for the Ashfield-Colborne Lakefront Association. I live in Campbellville and I've owned a cottage on Lake Huron in Huron county for 26 years. My wife and I now spend five months a year there.

My first thought is that there seems to be an inordinate rush to suddenly pass this bill after long delays. One would have hoped that enough time would be taken to make sure we truly understand and consider the advice that we have been given in Walkerton part two. In fact, if this committee merely accepts the Walkerton part two report, this province's drinking water and surface water will eventually recover. Failure to adhere to the Walkerton part two recommendations will condemn this province to generations of pollution.

The regulations necessary to clean up our water supply will eventually be passed. Paper number 6 of the Walkerton inquiry makes it clear that the severity of regulation in any country or jurisdiction is directly proportional to the mess that it must clean up. Your decision is whether to pass the necessary regulations now or when the situation becomes even worse.

Our organization made a submission to this committee only a few days ago. I hope you have read and considered our concerns and recommendations. When we were notified last evening that there would be a public hearing today, the simplest thing would have been not to come. Unfortunately, this morning was our routine biweekly extreme water testing thing. It took some major logistics to even get here. We do a biweekly water testing program—we started last year and it's going on this year—the full results of which are in the packet we gave to you. It was published by the Maitland Valley Conservation Authority. We are attempting to find out why our streams and beaches are loaded with E coli, phosphate and nitrate. Not to come today would have been giving up. Not to come would be allowing this weak bill to pass unopposed. Not to come would be accepting fouled drinking water, closed beaches and a ruined environment.

Let me take you through a quick state of the environment in Ashfield-Colborne-Wawanosh township. In

excess of 30% of all water wells are polluted with E coli. In our water testing project last year, we found the following. Each of the 12 streams tested had averages above the provincial water quality regulations of 100. The average for the total of 173 samples was 1,102, 11 times the water quality regulations. One small stream had reports of 214 times and 170 times the limit. One swiftly running stream averaged 15 times the limit. This stream flows into Lake Huron at the site of a children's camp. This camp is now forced to bus its children to Lucknow to use a community pool.

The largest stream, Nine-Mile River, averaged 6.6 times the PWQR. It empties into the lake at the site of a large cottage community and a public beach. Even though it's not an overly large river by provincial standards, its impact is huge. The water volume from that river in 2001 would fill an area of 55 square kilometres, five metres deep. You can multiply that out any way you want. It can be 55 kilometres wide and a kilometre out, but it is still a humongous amount of water. It equates to about one sixth the volume of Lake St Clair.

What is the effect of all this pollution? The average Huron County Health Unit beach test for our township last year was 275, almost triple the safe level for swimming. No beach averaged below the limits. Each beach had individual readings exceeding 1,500. Amberley, the largest beach, recorded a reading of 5,200; Kintail, the site of the children's camp, recorded 4,400. Fifty-three per cent of all of the Huron County Health Unit beach tests exceeded the limit for safe swimming. Ashfield, Colborne and Wawanosh beaches were closed for a total of 140 days in 2001.

The Walkerton report makes specific comparisons between Ontario and Kentucky due to similar geological conditions. I come from a transportation background; I travel constantly. In the United States, Kentucky is generally regarded as a redneck, backward state. It's renowned for bad schools, poor diets, corrupt government and people who drive motorcycles without helmets.

Yet Kentucky has manure management laws that are much stricter than what you seem to intend to pass. What will it take to get this province to pass laws that will adequately protect our water? The logical first step is to license farms. Every other business in this province requires a licence to operate. Only through licensing will the province get enough control to know who is out there and what is happening. Why should farming be different from other businesses?

Proposed regulations must insist on geological testing and stream sampling before licences for new barn capacity are issued. If nearby streams are polluted beyond provincial water quality regulations, then licences must not be issued. Existing farms must prevent livestock from access to streams. On the 15 stops this morning we saw six farms with animals in the water.

Runoff must be eliminated. Ontario must adopt laws similar to those found in certain states in the United States where the only acceptable runoff is after a 25-year, 24-hour storm. Communities must still have the right to

pass bylaws further restricting agricultural expansion if required by local conditions. The Walkerton paper 6 clearly shows that five counties in southwestern Ontario have reached saturation levels for livestock concentration. There must be legislated ability to control further growth if it will impact on the environment.

In conclusion, you're here to pass a law protecting Ontario's water. You are not here to facilitate intensive livestock growth. This is about water, this is about health, this is about the quality of life and this is about the province that we will turn over to our children. This is not about farm exports, this is not about feed sales and this is not about Ontario pork.

The Chair: Thank you very much. This time I'll give five minutes to Ms Churley.

Mr McElhone: Excuse me for one second. There are two people here who have more knowledge on the management side, Mr Dave Cooper and Mr Heinz Puhlmann. The questions can be addressed to them as well, if you concur.

The Chair: If they would like to join you at the table.

Ms Churley: Thank you very much to everybody for coming on such short notice. I was burning up the phone lines late yesterday afternoon and last night. We appreciate your coming today to give your presentation.

In the Walkerton part two report, which was just released and which we're all studying to try to figure out the best approaches for protecting our water, one of the things, and it was just quoted by the previous submitter, Judge O'Connor said was that once there's a strong provincial standard in place for what I read as existing farms, the municipality then should not be able to reach in and change that. That's my reading of it.

I think what you're saying is something different, that we're hearing a lot about the larger mostly hog farms, which is what I get the most correspondence about. One of the amendments that was not accepted by this committee, and it is different from what Judge O'Connor is talking about, is the ability for municipalities to bring in bylaws to restrict and have a say over allowing large—what's known as intensive—farming, or whatever, to be placed in their municipalities. Is that what you are saying, as opposed to the specific issue that Judge O'Connor raised around existing farms and standards on that farm? Because I see them as two different issues.

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Mr Heinz Puhlmann: Perhaps I can answer that.

The Chair: Excuse me. Could you identify yourself for Hansard.

Mr Puhlmann: Yes. I'm Heinz Puhlmann, and I'm with PROTECT in Ashfield township.

I have not read Justice O'Connor's report in its entirety, but it seems to me that where he says individual farms should not be further restricted once they adhere to certain standards, this is to be read in conjunction with his recommendation that watershed management plans should be in place and once these farms have operated within the parameters of the watershed plans, they should not be further restricted. We don't have any watershed

management plans right now in place; therefore, yes, I believe the municipalities should have powers to restrict and pass bylaws to restrict intensive livestock operations.

Ms Churley: Yes, specifically to have a say in whether there are new ones opened up. There has been controversy, as you know, over that issue, and a few others as well, including should it be the Ministry of the Environment, as Judge O'Connor clearly recommended, that oversees this act, or the Ministry of Agriculture. But the issue around the municipalities having that right to have those bylaws—I know AMO came forward and also expressed concern about having that planning tool taken away from them. So I'm just trying to get at some of the concerns that you raised. I understand that is one of your biggest concerns.

Mr Puhlmann: Yes. We have, for instance, in our township a very large cottage community and tourism community. We're not the same kind of township that is farther inland, for instance in the Brussels area. We have a large tourism component in our area. I cannot see that every county and every township in the province should be treated the same.

Ms Churley: Another question around how you foresee the writing of the regulations, because I am putting forward some more amendments: I don't know if they'll pass or not, but this act will be passed fairly soon. Knowing in the Legislature in December that the Walkerton report part two was coming out in May, I was quite anxious for us to have this opportunity, after seeing the report, to have another kick at the can here.

Do you have any idea at this point, when Judge O'Connor talks about watershed studies and watershed management, how you see that fitting into this kind of legislation, or do you envision a separate, what I call a green planning act or watershed planning act or something like that? Or do you see somehow that this legislation should include that kind of planning?

Mr McElhone: I believe this legislation should include—and I'm not sure whether it's at this level or at the rural level—certainly a clear statement that it is the Ministry of the Environment that will be doing the enforcement of this. There's been considerable concern shown across this province that OMAFRA is just too deeply involved with the farm community; they're promoters of the farm community and would not do a decent job of enforcement.

Ms Churley: So how would you see their role, then? Working directly with the farmers to do some of the training and working in that capacity?

Mr McElhone: Or maybe the training should be done on the OMAFRA side. I came from the trucking industry, and when they introduced hazardous materials legislation across the country, no one asked us whether they wanted us to do it. We were given the manuals, told the names of certified trainers. We hired the trainers at our own cost, and if it didn't work correctly, we went to jail or had high fines. There was no subsidy to do it. We got in line in an awful hurry. I'm aware of no truck lines that went under because of that.

I really think in this case we're more into "I don't want to" than "I can't." I think there have to be strict rules. I do not believe that any farmer who is living up to the rules you have in the legislation should then be further harassed.

The Chair: We've actually gone beyond six minutes. Thank you very much, gentlemen, for taking the time to come all the way down here. We appreciate your comments.

ONTARIO FEDERATION OF AGRICULTURE

The Chair: Our next presentation will be from the Ontario Federation of Agriculture. Good afternoon. Welcome to the committee.

Mr Bill Mailloux: Thank you, Mr Chair. I apologize for not having my suit coat on. My wife said to make sure I wore it, but she's obviously never been in this room before.

Mr Peters: Look around the table.

Mr Mailloux: Yes. Let's put it on record that there are not many here who have their suit coats on.

I'm Bill Mailloux, vice-president of the Ontario Federation of Agriculture. This is David Armitage, a senior policy researcher, and when I use the word "senior," it doesn't reflect anything about his age; it's his expertise.

The Ontario federation is very pleased that we could make comment today. We're pleased to see the Minister of Agriculture here as well to hear all the concerns.

The Ontario Federation of Agriculture represents over 44,000 farm families. We have 28 member organizations that work on a range of agriculture issues. The OFA's commitment to the protection of natural resources has been demonstrated in several ways. The OFA is one of four lead agencies of the Ontario Farm Environmental Coalition and is involved in all of its various working groups and committees, working on such issues as environmental farm planning, nutrient management, water quality and water taking. We have also been involved in the production of a series of publications on best management practices—I believe you have copies of those—and other resources that help farm families to improve the environmental concerns and water quality concerns on their farms.

I'd also like to point out that we were involved in this long before Walkerton. We actually had the expertise hired on our staff, I guess over six years ago—a water expert, a hydrologist. So we've certainly been concerned with these issues for a long time and we continue to work in a positive manner.

We're also providing the committee with a copy of the Ontario Farm Environmental Coalition's submission on Bill 81. It was prepared by Dr John FitzGibbon, chair of the OFA committee. His schedule did not allow him to change and come here today, so we've made copies and presented them to you.

We've got five points we'd like to cover in this presentation.

(1) We believe it's imperative that the most important element of the proposed Nutrient Management Act be recognized as the introduction to the agricultural community of a standardized nutrient management planning process. The OFA held consultations with its members last November and December all across the province and we had overwhelming support on the concept of farmers preparing a nutrient management plan specific to their farm operations, although that was provided that an appropriate level of training is provided and funding assistance is available to offset any capital cost improvements that are necessary to comply with the legislation.

The elements of a standardized nutrient management plan are summarized in figure 1. I'll talk on that a little bit more.

It is the position of the OFA that all farms in Ontario, regardless of size or their location, must develop and implement a nutrient management plan. However, we do see merit in having a phase-in period that requires operations that are considered to be of higher risk—by higher risk I mean more obvious to be able to do a nutrient management plan right away and others that will have to phase in. I think the words "higher risk" are maybe not the right words, but perhaps you start with new facilities, those that are doing expansions and things like that, work in a nutrient management plan—the obvious ones, just for convenience if nothing else. We have a phase-in period for others to comply.

There are quite a few things to consider in a nutrient management plan when you're looking at the farm. When you're looking at a livestock farm, there has to be consideration of the species, the number of animal units on that farm, the type of housing, the feeding system and manure system. Certainly all of those are different on farms, depending on livestock and how you handle manure and things like that. So there are a lot of things to consider on livestock farms.

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Storage of the nutrient at the farmstead has to be considered: the size and location of the storage, referring to compliance with the minimum distance separation and, whether it's manure or inorganic fertilizer, again the size and location of storage. All those have to be considered.

Characteristics of the fields where nutrients are to be applied: you have to consider the soil test results, soil texture, yield of the crop grown in the previous year, the slope of the land. I live on a farm in Essex county. We raise turkeys as well as cash crop. Certainly the landscape in Essex county is quite different from other areas in the province. It's probably the flattest I've ever seen. There are other areas with heavy slopes. All that has to be considered: the types of buffer strips around farms, distance from manure storage and things like that. It's a lot to consider on different characteristics of the farms.

Nutrient requirement of growing crop: crop grown and estimated yields that that crop can produce and the amount of nutrients removed by the crop.

Application of nutrients: when it comes to manure there are certainly different ways that manures are

applied, whether it's liquid or dry, and the livestock class, a whole range of things that have to be considered when we're talking about the nutrient management plan and some elements in that.

(2) What has been brought up a few times already today is the question of a lead ministry for Bill 81. That question has been debated since the bill was introduced. The OFA's position is that the Ministry of Agriculture and Food has the expertise necessary for training farmers in the principles of nutrient management, reviewing nutrient management plans, conducting compliance audits and administering funding programs.

We recognize that Justice O'Connor suggested that the Ministry of the Environment take this lead role. We do respect his opinion and we have had a very good working relationship with Justice O'Connor. However, we're not prepared to change our policy on that. We believe that OMAF should be staffed. They do have the expertise to be the lead ministry. Certainly we would have to go back and consult with our membership if we were to change that, and at this time we're not prepared to do that.

We note that Bill 81 was introduced without a lead ministry named and we suggest that the discussions as to what ministry plays what role can be part of the regulatory development process. It should be sufficient for the bill to simply indicate that the responsibilities for administering the act will be assigned by regulation.

Apart from naming the lead ministry, the OFA strongly endorses, and we have mentioned this in the past, the concept of establishing an interministerial committee comprising the Ministry of Agriculture and Food, the Ministry of the Environment, the Ministry of Natural Resources and the Ministry of Municipal Affairs. We believe this committee could serve to coordinate the activities of these ministries with regard to nutrient management and ensure that consideration is given to local municipalities through municipal affairs, conservation authorities and the Ministry of Natural Resources etc, that they all have input, but we still believe that the lead role would be with the Ministry of Agriculture and Food.

(3) The OFA believes that the scope of the Nutrient Management Act should be limited to materials containing a nutrient that is applied to the land. This is including manures and inorganic fertilizers, biosolids, legume crops etc. It's important that this legislation stick to the fact that it deals with applying nutrients. Regardless of what those nutrients are, we believe they should be handled properly and responsibly and we would like the legislation to stick to that.

I'm referring to this because Justice O'Connor's report made reference to such potential contaminants as fuel and pesticides. We believe that those are captured in other legislation. There are certainly regulations on how we handle fuels on the farms. We have pesticide registration already in place. We've lowered the use of pesticides on farms by some 40% in the last 10 years. I believe that number is fairly accurate. There's other legislation that deals with that. We believe this should focus on nutrients. Certainly there are other ways under

the Pesticides Act and the Environmental Protection Act that those others can be dealt with.

(4) The OFA concurs with the purpose statement that was added to the bill through an amendment by the standing committee on justice and social policy. We believe that was a very important amendment. It put out the purpose of the legislation to have sustainable agriculture while protecting water and the environment, and certainly we're in support of that.

We also appreciate that there's a section dealing with biosecurity. It's clause 58(g). David would have to refer to that for me. It has been added through an amendment as requested in our submission to the standing committee on justice and social policy in September 2001. Biosecurity is an important issue on farms these days. We don't believe it's an excuse to allow polluters to continue to pollute, but it's certainly an issue that has to be considered.

I'm involved in the feather industry and it is very important that we have strong biosecurity on our farms. We don't move things from our farm to other farms for that reason. It's very important not only in the feather industry but in all, and we're glad that's being considered.

Finally, the OFA would like to deliver the message that nutrient management legislation is welcomed by the agricultural community to further assure citizens that farmers operate their businesses responsibly and have a particularly well-developed environmental ethic, given that their livelihood is dependent upon soil and water resources. The sense of urgency to have this legislation in place has been heightened by the recent release of part two of the Walkerton report, which contains several references to the proposed Nutrient Management Act. We believe the importance of this act has been referenced in that and we agree with that. We believe the quicker we can get the legislation in place, the better off we'll all be here in the province, both as general citizens and the agriculture community.

With that, David, if you have anything to add, feel free and I'll open it up to questions.

Mr David Armitage: I have nothing to add, Bill. We'll just take some questions.

The Chair: This time we'll give about four and a half minutes to the government caucus, starting with Mr Barrett.

Mr Barrett: Thank you for that presentation. You made reference to Justice O'Connor's call for individual water protection plans. You see much of the solution to accomplish that through the nutrient management planning process. We had a presentation earlier by Ontario Pork and they put forward a position that the environmental farm plan would go a long way to meeting some of these requirements. I wonder if you could comment on that or comment further on how the nutrient management planning process would meet the recommendations of Justice O'Connor.

Mr Mailloux: We believe nutrient management plans have worked well in Ontario. I may let David comment on that because he's been around environmental farm plans for quite a while.

Mr Armitage: I would concur with Ontario Pork, particularly with reference to the commissioner's comment on expanding the scope to include such things as fuel and pesticides. I think that's exactly what the environmental farm plan does. It's a much more holistic approach to environmental management and is not focused simply on nutrients. I think the water protection plan would actually be a subset to the existing environmental farm plan.

Mr Barrett: We recognize we have a Pesticides Act in existence. We have an Environmental Protection Act that would cover some of that as well.

My knowledge of nutrient management plans, from what I've seen, is that they focus on an individual farm property or land that is being leased, and much of the direction we're seeing is a need for much broader watershed management and concerns of underlying aquifers which don't follow the boundary of a farm property and certainly don't follow municipal boundaries. Do you feel that individual nutrient management plans and long-distance separation are up to the job of covering some of the broader geographic concerns around either aquifers or watersheds?

1640

Mr Armitage: Yes, I do. I think there's certainly merit to having a watershed plan and organizing at that level. I think the nutrient management plan drills it down to the farm level and to the field level and then even to the subfield level. There's nothing but benefit to that, because that's really where the problems start. In the case of nutrient, it would be with an over-application or an improper application on a specific spatial point. The plan is to address those issues and ensure that nutrient is applied correctly. So I think it's absolutely imperative. The smaller the scale, in that case, the more beneficial it is.

At a watershed level, it's pretty hard to get everyone involved. But at the farm level, if you've got operators doing it right, then you know at least that property is complying. Then, of course, it's a cumulative thing, to make sure that adjacent properties are doing it as well, but I think it will always be important at the farm level that the nutrient management plan is being implemented.

Mr Mailloux: To add to that, if you look at figure 1, "Key elements to be considered," you can see how it would deal with your concerns. Depth to groundwater, buffer strips, distance to surface water wells and things like that can all be considered.

Mr Armitage: Those are all very site-specific.

Mr Barrett: Certainly, it is tough to coordinate something like this with an individual farm plan. You made a suggestion of an interministerial committee. I think Justice O'Connor made mention of a role for conservation authorities which are based on watersheds. Do you see farmers, perhaps through the local advisory committees that are proposed by this legislation, being able to work with conservation authorities or broader organizations?

Mr Armitage: Ideally. The truth is I think there's some work to be done there. There are 38 conservation

authorities in the province. Some of them have a very good rapport with the farm community, others don't. So I think if we move to a reliance on involving conservation authorities, there will be some areas where relations will have to improve.

Mr Mailloux: That's why we were supporting the interministerial committee to deal with that concern. There are outside ministries involved, obviously, that have concerns and that's one way to make sure those concerns are all brought together.

The Chair: Thank you both for coming before us here this afternoon.

DAIRY FARMERS OF ONTARIO

The Chair: Our next presentation will be from the Dairy Farmers of Ontario. Good afternoon and welcome to the committee. Please proceed.

Mr Gordon Coukell: I have a copy of the presentation here. My name is Gordon Coukell. I am chairman of the Dairy Farmers of Ontario. We appreciate the opportunity to meet with you this afternoon and present our views on the Nutrient Management Act that's being discussed here.

Dairy Farmers of Ontario has been actively involved with the other farm groups in discussions about the need for provincial standards for nutrient management. Thus we are supportive, in principle, of Bill 81.

There are a few issues and concerns which we raised earlier to the justice and social policy committee that reviewed this last fall and we'll review some of those with you again today.

(1) The area of biosecurity: we had raised the issue of biosecurity and the need for auditors or investigators to follow the farm plans that are in place. We are pleased to see that an amendment has been made prior to second reading and thank the Legislature for that amendment.

(2) As far as municipal jurisdiction, we believe municipalities should not be allowed to supersede or circumvent the Nutrient Management Act in any way. This act must take precedence over all existing bylaws and acts covering this subject. Nutrient management regulations should be consistent across the province.

(3) The ministry responsible for administration: OMAF should be the ministry charged with the responsibility of administering the Nutrient Management Act. This act is about handling crop nutrients safely and therefore should be done by personnel with farm expertise. Any pollution due to spills or faulty practices would be referred to the Ministry of Environment and Energy. That is presently the case and, in our view, we don't see that changing in the future.

(4) Separation of the enforcement and extension and audit roles: I would suggest that there's probably been some confusion around this issue in much of the discussion that's been held to date. OMAF should take on the role of extension provider and auditor. We recognize that this will require additional staff, but feel strongly that government must hire these people as a know-

ledgeable resource for this act. We believe OMAF has a role here and this should not be contracted out at this point in time. An effective audit program will give public assurance that the nutrient management plans developed under the Nutrient Management Act are being followed.

(5) Complaint-handling protocol: provision for a complaint process will be an important part of the legislation to deal with public perception and questions raised regarding nutrient management plans and compliance. Complaints could be handled by municipal clerks and then directed to county environmental response teams, or the Ministry of Environment and Energy if pollution was involved. If enforcement was required it would be handled either by OMAF or MOEE, depending on whether pollution was involved. We feel quite strongly that there is a separation of areas and duties here between the pollution issue and the enforcement of regulations dealing with the administration of nutrients to land.

(6) Privacy of information: verification of compliance and a short summary of nutrient management plans should be public documents. Full plans should not be available to the public in consideration of sensitive and/or protected information. Plans should be audited by the auditor and not audited by public complaint, in our view.

(7) Economic impact studies: economic impact studies must be done prior to setting the regulations in place. Environmental protection and associated costs benefit the public interest and therefore public support is required. Adequate funding of public dollars must be made available so that Ontario agriculture can remain competitive with producers in other provinces in this country and in other countries that we compete with.

(8) Environmental assessment: the environmental farm plan should be the basic environmental assessment tool used on farms in this province. Environmental assessments should only be used in sensitive areas or select soil types. Environmental assessments should not be used as an excuse to stop or hold up agricultural practices in a specific area.

(9) Involvement of commodity groups when creating regulations: as has been stated in the past, the commodity groups have been very involved in the development of the nutrient management plans and discussions leading up to the introduction of this legislation. We also feel strongly that there should continue to be consultation in the creation of the regulations that will be established under this act. We encourage routine reviews and updates to the legislation so that there can be an incorporation of new technologies and new developments in research by the agricultural community.

In conclusion, since we do not have a standard nutrient act for the province, many municipalities are implementing a wide variety of bylaws to deal with individual nutrient management. This situation is making it very difficult for agriculture to operate efficiently across this province. I would encourage the committee to recommend speedy passage of Bill 81. The agricultural community is willing to work under reasonable rules in using

nutrients to produce crops and are committed to doing what we can to maintain the quality of the environment here in Ontario.

1650

The Chair: Thank you very much. You've left so much time that we go back to a more typical rotation. We've got fractionally over three minutes per caucus.

Mr Peters: Thank you, Gord, for your presentation. On your point on the non-agricultural nutrient users, would you define a golf course as being a non-agricultural nutrient user?

Mr Coukell: Yes.

Mr Peters: On the question of the involvement of commodity groups when creating the regulations—and there's no doubt that's a very valid and important point—what's your opinion on the involvement of CREEK? It's an organization that was here earlier, a local environmental organization that is also concerned about the impacts of intensive livestock operations on communities. Do you feel that in the development of the regulations it should be just the commodity organizations or should we be involving the public at large in the development of these regulations?

Mr Coukell: Realistically, everyone should have the opportunity for input into them. I don't think we can be restrictive in that way. Ultimately it will be cabinet that decides. We understand that.

Mr Peters: One of the things we're trying to put forward in one of our amendments is to have it clearly defined in the legislation that the economic impact is of extreme importance. Have you had an opportunity to survey your own members on potentially what kind of economic impact we are looking at? Having seen the legislation, and not knowing the regulations yet, do you have a ballpark idea what the financial impact could be on some of the individuals you represent?

Mr Coukell: No, I don't. Number-wise, Steve, I really don't. There will be some significant impacts on some producers; on other producers it will probably have very little impact. It's very difficult at this point, and almost impossible, until we see the regulations and what they're going to be like, to determine that economic impact. As we develop the regulations and see what kinds of rules are being put in place, then it will be easier for commodities to bring forth some ballpark figures as to what that impact will be.

Ms Churley: I have an amendment, which I put forward the last time as well, on including golf courses in this act. So you would support the committee supporting that amendment?

Mr Coukell: Yes. We weren't insistent that they be included now, but I think we must recognize there are other aspects out there that need to be included at some point in time.

Ms Churley: This is a good opportunity to do that. I think it's only fair that if you have to follow those rules so should others.

I wanted to come back to the whole thorny question, if I may say, around municipal authority in the Nutrient

Management Act overall. I think it's fair to say that members from all sides, including the minister's riding, have received a lot of correspondence, in some cases from some of the smaller family farms, mostly from others who are very concerned about what is referred to as intensive livestock operations. They feel that it's a one-size-fits-all, and no matter how good the regulations might end up being, it really comes down to the Planning Act for any jurisdiction or planning authority, and if you take away—AMO came forward with a concern about that as well, the ability to take everything into account, including tourism, beaches, sensitive headwaters, whatever, and to take that away from a municipality is really problematic.

I heard what you said and I understand your views on it, but I'm just wondering how you might see that legislation working if that's where we end up without my amendment being accepted again. I think you would admit it is a thorny and difficult issue for all of us.

Mr Coukell: My home township goes to the borders of Wasaga Beach so I'm in a tourist region as well. But I don't see that as a detriment here. We have to have consistent rules across the province. Unfortunately, we haven't seen that in the municipal bylaws that have been created. Quite frankly, in my view, a lot of the municipal bylaws were created without adequate input of the agricultural community who are living within those boundaries. So it wasn't a realistic approach to a situation.

Agricultural nutrients can be a pollutant but they don't necessarily have to be. There are many other things in a municipality that can be detrimental to water quality as well. I think a common set of rules for how we manage nutrients in our agricultural areas across this province is doable. For some of the other things, I think the municipalities can still deal with those, but not in this. Certainly, one of the things we see as producers is our operations don't necessarily go with municipal boundaries. When you get half a farm in one municipality and half in another, with different rules depending on which side of the fence you're on, it makes it almost impossible to operate.

Mr John O'Toole (Durham): Thank you very much, Gordon, for your presentation. I follow with some interest this debate because of my riding. Durham is certainly a mixed area. It certainly includes dairy, and it includes livestock generally in all the classes and it's an important component of our economy. We have the same kind of complexion in Durham: there's a complex economy, but agriculture is the quiet engine, with the second-largest gate receipts and all the rest of it. I just want to be on the record as saying that.

I know the local ag advisory committees—Clarington and Port Perry both have one—are all quite active, with commodity people trying to find solutions, I think; they're not trying to find barriers. But they're also very proactive. Most of them have the environmental farm plan mechanism in place and have been a showcase, really, for good stewardship and sensible modern farm practices. I think they're the best-kept secret, really, and that's something.

Mr Coukell: I would agree.

Mr O'Toole: But I have a question on the environmental assessment process, the environmental farm plan. You're saying the Dairy Farmers of Ontario—I just want to clarify this. It says, "The environmental farm plan should be the basic environmental assessment tool used on farms. Environmental assessments should only be used in sensitive areas or select soil types." I think what I'm trying to specify here is that if you're calling for a full environmental assessment here, I hope you know what you're asking for. This is like a 400-years-in-court kind of thing with no outcome at the end of it all.

Mr Coukell: That's exactly the point we're making. The basic environmental assessment tool in Ontario should be the environmental farm plan. If there is some extremely sensitive area or some particular soil type that needs something additional, then that may have to happen in certain areas, but not as a general rule across the province.

Mr O'Toole: Yes, I guess that's the whole thing I've heard consistently, that the soil type has to be a priority. Then the whole definition of "large farm," "intensive farm" or whatever becomes another kind of threshold where we don't by accident put the small farm out of business. If there is a sensible plan in place and they don't have a large, large, large operation then, gee, we don't want to saddle them with a whole series of restrictive measures.

Mr Coukell: That's very true. In our view, size has really nothing to do with this. It's managing the nutrients you apply to the land base under your control. That has nothing to do with whether I have 10, 200 or 500 cows in the basics. I need to manage those nutrients and pay attention to setback distances from watercourses, proper rates of application and those types of things, regardless of size.

Mr O'Toole: I thank you for your input.

The Chair: Thank you very much for coming before us here this afternoon.

1700

CHICKEN FARMERS OF ONTARIO

The Chair: Our next presentation will be from the Chicken Farmers of Ontario. Good afternoon and welcome to the committee.

Mr John Maaskant: Good afternoon, Mr Chairman and members of the committee. I would like to thank you for the opportunity to address this committee on behalf of Chicken Farmers of Ontario. My name is John Maaskant. I am on the board of directors of Chicken Farmers of Ontario. I also serve as chairman of the Ontario Farm Animal Council's environment committee and I am the CFO's representative to the Ontario Farm Environmental Coalition. I have been a chicken farmer all my life and, in fact, my father was one of the founding members of the organization in 1965. I was raised on a chicken farm in the Clinton area and that's where I still farm today. Chicken Farmers of Ontario represents more than 1,100

family-run chicken farms. We're proud of the role we have played and continue to play in areas of environmental stewardship and ethical farm practices.

Last year, chicken production in Ontario had a farm gate value of nearly \$490 million. We produce more than 300 million kilograms of chicken meat, accounting for almost one third of the chicken grown in Canada. Chicken accounts for 6% of the total farm cash receipts for Ontario, and the industry continues to expand each and every year. We fully recognize the importance of effective and ethical environmental farm practices in the Ontario chicken industry.

Now to the issue at hand: the nutrient management legislation. Through OFAC, the Ontario Farm Animal Council, and OFEC, the environmental coalition, Chicken Farmers of Ontario has put considerable time and resources into this issue because we believe that it's important that farmers help advance and develop modern farm practices that respect and protect the environment. We owe this to society.

Chicken Farmers of Ontario is fully supportive of the work the Ontario Farm Environmental Coalition has done in developing a position on nutrient management legislation that reflects the realities of modern-day farming. Our organization fully supports and endorses the position put forward by OFEC.

I want to congratulate the government of Ontario for introducing legislation that reflects the OFEC position. I would also like to thank Minister Johns and former Ministers Coburn and Hardeman for taking the time to get it right. This legislation is far too important to be rushed, but that does not mean that it should not move forward. We believe that Bill 81 reflects the notion that a strong agricultural economy and a clean, safe environment are compatible goals.

CFO encourages all parties to support Bill 81. We need this legislation and we need to start developing the regulations that will make it effective. Farmers need a more predictable environment with respect to the environment. We need to know where we stand with respect to standards.

It's important for the committee to understand that no one has a more direct interest in keeping water clean than farmers. We often get our drinking water directly from private wells on our own property. If our water is affected, it's our families who suffer, not to mention our livestock or poultry. We do not condone polluting, and we would expect the government to deal quickly and harshly with any farmer who pollutes. The legislation before us today is a good framework for the prevention of pollution and it allows for stiff penalties.

I would now like to share some thoughts regarding the important subject of consultation and regulations. CFO recognizes the importance of regulations and we encourage the government to actively consult with the agricultural community before cabinet passes regulations. We want to make sure that the government understands specific issues that need to be addressed through regulations. I would also like to emphasize that CFO and

animal agriculture in general have done their homework and we're prepared for consultation at any time.

I'd like to also talk a little bit about a very specific issue of great significance to CFO. Chicken Farmers of Ontario has had long-standing concerns about using livestock units as a basis for measuring the size of farms. A more accurate unit of measurement has been the animal manure nutrient unit, or AMNU. It's important that the method of determining how many birds make up an animal unit is based on science. While this legislation does not specifically set out a number of chickens in an animal manure nutrient unit, it does allow the government to implement it through regulations that will come after the passage of this legislation.

Chicken Farmers of Ontario needs to be consulted on any regulation that attempts to set the number of chickens that comprise an animal unit. Getting the number right is critical. A number that's too low will only cost farmers money, and also mean lost production, lack of competitiveness and higher costs. A number that's too high could put the environment at risk.

Another issue I want to talk about is the consistency of regulations. One problem that exists today is that municipal governments have different rules when it comes to nutrient management planning. It's a hodgepodge assortment of rules that make running a farm business difficult.

The provincial government has attempted to address the fact that municipal governments and farmers have been asking for clear and consistent rules for nutrient management planning that are uniform across the province. We would hope that the rules that come out of this legislation become the final rules by which municipalities and farmers must abide. These should not be considered minimum standards that can then be built on. If that were allowed to happen, we would quickly find ourselves dealing with different rules in different municipalities. Chicken farmers, and the agricultural community at large, need to be assured that municipal governments won't use other tools such as the Planning Act to circumvent the Nutrient Management Act.

The third area deals with inspection and monitoring. As we have stated before, allowing government inspectors to go in and out of our barns could pose a significant biosecurity threat. Government has listened to our biosecurity concerns and, in fact, has amended the bill to reflect our concerns. We certainly thank you for that because it is imperative that any biosecurity protocol for inspectors must be compatible with the on-farm food safety assurance program for chicken.

This does raise the point, though, about who sets the standards and who enforces the rules. CFO believes that the Ontario Ministry of Agriculture and Food should be the lead ministry. We think OMAF should set the standards and monitor implementation. We believe that OMAF should also create a special unit of properly trained people who would be responsible for enforcing the rules.

The reason for choosing OMAF over the Ministry of the Environment is that Bill 81 is largely about educating

farmers on matters involving proper storing, handling and applying nutrients to the appropriate land base. This bill is about planning and prevention and about helping farmers develop their own nutrient management plans. We think that OMAF is the right ministry to work with farmers, to educate farmers, to set standards and to ensure that they are met.

Clearly, the goal of nutrient management planning is to prevent the contamination of groundwater. If an accident such as a spill occurs, then the Ministry of the Environment should definitely be in charge. However, we think that OMAF should be responsible for developing standards, monitoring compliance and enforcement. Otherwise, we run the serious risk of putting someone who does not understand agriculture in the position of telling farmers how to run their farms.

There are other issues raised by this legislation that will prompt the agricultural community to seek direction from government. One of those issues is the need for capital funding so farmers can meet the new standards. Farmers are committed to meeting environmental standards but, at the same time, it could become expensive. We are asking for economic impact studies to assess costs to farmers and the benefits to society of new regulations and standards.

In closing, I would like to reiterate to the committee that Chicken Farmers of Ontario endorses the direction the government is taking regarding this very important issue. We certainly urge all political parties to support Bill 81, so that Ontario can get on with the job of setting and enforcing fair, equitable and uniform environmental standards for all Ontario farmers, no matter where they live and farm. On behalf of Chicken Farmers of Ontario, I thank you again for the opportunity to make this presentation.

The Chair: Thank you very much. That affords us just fractionally over two minutes per caucus, so one or two quick questions. We'll start this time with Ms Churley.

Ms Churley: Actually, I think I can pass.

The Chair: Mr Barrett?

Mr Barrett: We raised broilers before 1965. We should have stayed with it, I think. I've forked enough chicken manure and I've never been aware of a spill or the kinds of problems that we sometimes see with liquid manure. Do you make any distinction at all between what I refer to as dry manure and liquid manure systems? I understand that if you're spreading dry manure and you get a downpour or heavy rain, obviously you've got liquid manure. Do you make any distinction between the two basic systems?

1710

Mr Maaskant: Definitely we know that we have an easier time dealing with dry chicken manure, broader chicken manure, than with liquid manure. We have a lot fewer problems, and of course, as you said, it's very rare that we hear of spills or problems. Our view is that this nutrient management legislation deals with all nutrients from all sources, and although we may have an easier

time, we are affected and we also have to make sure we're doing a proper job.

Mr Barrett: Much of the Nutrient Management Act hinges on the value of nutrient management: individual farm nutrient management plans and nutrient management planning. We've heard a proposal this afternoon with respect to environmental farm plans; perhaps a bit of a broader perspective has been proposed. Environmental farm plans could provide the structure for, say, an environmental assessment with respect to agricultural operations on certain soil types or in sensitive areas. What weight do you put on the environmental farm plan—it's also voluntary and, until recently, federally funded. What weight do you put on that as an answer, perhaps in conjunction with nutrient management plans and everything that goes with them?

Mr Maaskant: We fully support the use of environmental farm plans for risk assessment. We've always recommended that it's a good practice for farmers to voluntarily take part in that program and do an environmental farm plan. It's a great way of assessing all the risks on your farm in all areas. A nutrient management plan would really become a sort of subset of an environmental farm plan, along with all the other parts.

Mr Peters: Thanks, John, for the presentation. You made reference to protecting the water, and you made the point that this legislation should deal with all nutrients from all sources. What is your opinion on golf courses being included in this legislation? We know that a lot of fertilizer is used on a golf course. Should golf courses be following the same rules that the agricultural community is being asked to follow?

Mr Maaskant: I'm not sure how that's going to work out, but as far as I'm concerned, we believe that all nutrients should be covered under this legislation, wherever they're applied to land.

Mr Peters: The issue of livestock units—I know it's not in the legislation, and you made some valid points that we've got to get it right on the livestock units. How should we get it right? What are you advising this committee—and the minister who is going to be embarking on the consultations is here today. Your livestock units are based on odours. How are you advocating that we make sure we get it right so we do not cause harm to your industry?

Mr Maaskant: I think there's work being done by OMAFRA people on that subject at the moment. The livestock unit is outdated; it's based on smell. When we're dealing with nutrient management, we're dealing with the application of nutrients to land. That should be the basis. It should be scientifically developed to deal with the output and the usage. The animal manure nutrient unit was much more justifiable, because it was based on nutrients that were produced by livestock or poultry. That's it generally. Specifically, I think they should be encouraged to find a new unit that's more accurate, more scientifically based and more justifiable to replace the livestock unit as quickly as possible.

The Chair: Thank you for coming before us this afternoon.

Our next presentation will be from the Canadian Environmental Law Association. Seeing no one springing to attention, do we have anyone from the Sierra Legal Defence Fund?

Actually, we were bang on schedule, recognizing that we really have to rise at 5:50 for the vote. We'll take a recess for the lesser of 10 minutes or the arrival of one of the groups.

The committee recessed from 1715 to 1725.

CANADIAN ENVIRONMENTAL LAW ASSOCIATION

The Chair: If I can call the committee back to order, I'll ask folks to settle in their chairs. I'm advised we now have a representative of the Sierra Legal Defence Fund with us—

Clerk of the Committee (Ms Anne Stokes): It's the environmental law association.

The Chair: —I beg your pardon, with the Canadian Environmental Law Association. I would ask them to come forward to the table. Good afternoon and welcome to the committee. Please proceed.

Mr Paul Muldoon: My name is Paul Muldoon. I'm the executive director of the Canadian Environmental Law Association. To my left is Theresa McClenaghan, a managing lawyer at the association. We'd like to thank the committee for the invitation to speak to you on Bill 81, the Nutrient Management Act. We'd like to just put on record how important we think nutrient management is and the issues related to it.

I should mention that the Canadian Environmental Law Association represented the Concerned Walkerton Citizens at the Walkerton inquiry. We heard about many issues relating to nutrient management and the need to protect the environment and drinking water with respect to nutrient management issues.

I'd like to mention that CELA is a legal aid clinic in the province. We represent low-income and disadvantaged communities. Many of these communities and our clients relate to farmers and we deal with many farming issues. Thus we have consistently expressed concern for the protection of agricultural land in Ontario. We feel that our submissions on the Nutrient Management Act reflect these historical concerns and today's concerns.

We have provided the clerk with our submission on Bill 81. We've also provided the clerk with speaking notes, which we'll get into right now.

With that introduction, I now hand the microphone over to Ms McClenaghan, who will speak on a number of points and our concerns with Bill 81.

Ms Theresa McClenaghan: There are certain themes that we'll address today. The first is the necessity for Bill 81 to be consistent with Mr Justice O'Connor's reports from the Walkerton inquiry. The second theme is the need for the standards under the act to be in place as soon as possible. The third theme is to give municipalities the

tools they need for source protection. The fourth theme is the need for clear legislative objectives and clear standards, and I'll speak to a couple of other amendments.

First, with respect to Mr Justice O'Connor's report which of course we received just days ago in terms of part two, the Honourable Mr Eves has stated the government's intention to implement every one of Justice O'Connor's recommendations from both parts one and two. Thus it is critical in our submission to ensure that Bill 81 is consistent with Mr Justice O'Connor's recommendations. They deal with many of the subjects that he did address in that report.

His report calls for development and provincial approval of watershed-based source protection plans. This is a key critical component of his report on which much else that he recommended rests. Conservation authorities and municipalities would be central to the development of those plans, and then he envisages that the Ministry of Environment would approve those plans.

In our submission, certificates of approval, for example for biosolids application, must be provided to be consistent with those watershed source protection plans. In the handout that we gave you today I've noted the recommendation number or the page number of the part two Walkerton report for reference. In this section consistency with his report is sometimes taken verbatim from his report. In addition to that, approvals must not be given to biosolids unless they are consistent with the watershed source protection plans.

Bill 81 should be amended to provide that the Minister of Environment is the responsible minister for regulating potential impacts of farm activities on drinking water sources and that OMAFRA should provide technical support. That's a specific recommendation of Mr Justice O'Connor. We made the same submission to him at the inquiry because of the Ministry of Environment's expertise in water protection.

Bill 81 should be amended to include purposes or objectives which it at present lacks. Among those should be the necessity to regulate nutrients, specifically to protect drinking water sources and to protect them from agricultural sources. That is not provided in the act at the moment.

Bill 81 should be amended to provide powers to make regulations, according to Mr Justice O'Connor. He specifically looked at Bill 81 in his comments and said it should be amended to provide for regulations concerning other aspects of agriculture that could have impacts on drinking water sources in addition to nutrients. For example, he listed pesticide handling and fuel handling, and there would be other aspects of agriculture. I think Mr Justice O'Connor was taking an approach in his report to advocate some efficiency. In other words, rather than too many additional pieces of legislation, why not just amend that one to provide for these additional impacts?

1730

He also made the recommendation that it should be amended to include a preamble providing that the bill is

intended to regulate the potential impacts of agriculture on drinking water sources, or at least he noted that it lacked such a preamble, and we would suggest it should be amended to include that preamble.

As well, Bill 81 should be amended to require that all—and this is from his report—large or intensive farms and all farms in designated sensitive or high-risk areas in the applicable watershed source protection plans be required to develop binding individual water protection plans, and that those be consistent with the source protection plan.

As well, once a farm has in place an individual water protection plan that is consistent with the relevant source protection plan, municipalities should not have the authority to require the farm to do more—or to meet a higher standard, rather. He noted in his report that that was to address the need for a balance between protecting water sources and having certainty and clarity for farmers as to what they should be required to do. We would note that we think Mr Justice O'Connor arrived at a fairly elegant solution by providing for watershed source protection plans and then noting the array of approvals that should then be consistent with those plans.

Mr Justice O'Connor talked about the need for the Ministry of Environment to work with the Ministry of Agriculture, Food and Rural Affairs, agricultural groups, conservation authorities, municipalities and others to develop a provincial framework for guidelines for individual farm protection plans dealing with a number of things—and I've listed the things he listed in the report: manure management practices, biosolids and septage spreading, chemical fertilizers, storm water runoff, tile drainage, pesticide use and fuel management.

The first set of suggestions we make is ways that Bill 81 in particular would be the appropriate legislation to deal with those elements of Mr Justice O'Connor's report. If it is intended that all of those recommendations be implemented, really it should be done in that bill. Otherwise, that would be a missed opportunity, and also there's the problem of later making it consistent with the recommendations.

Second, and briefly, we suggest that the standards that are contemplated under the bill as presently drafted need to be in place as soon as possible, and we specifically suggest that timelines for the development of those standards be established in the bill. At present there's nothing saying when the standards would be in place, so even if the bill was passed there's no requirement that they be in place in a reasonable time, or even ever. Of course, those standards are proposed to address essential issues like containment of biosolids and manure, quantities of materials to be applied to land, minimum separation guidelines, transportation, much else that's quite important, and at the moment we suggest that the cost to municipalities, farmers and the environment of not having certainty in this area is quite large. So we would suggest that specific timelines be put in place to say that standards would be developed within a certain time frame.

Of course, there should be meaningful public comment opportunities on those standards, because at the moment the bill is enabling legislation but it doesn't provide the specific standards that are contemplated, so there needs to be, for farmers, for environmentalists, for conservation authorities, for municipalities, for everyone concerned about water protection in particular, opportunity to comment on the adequacy of the standards and the workability of the standards.

The third theme is the need to give municipalities the tools required for source water protection. We've been asked to provide summary advice at CELA to certain municipalities and conservation authorities under our law reform mandate about what tools they have available to protect their water sources, given that they are concerned about making sure that no tragedy happens in their community. They're struggling to meet those challenges and at the moment they feel they're in a grey area regarding nutrient management bylaws, despite the proposed directive from the Minister of Agriculture, which I believe at last check was still proposed and not actually issued, and as to biosolids application, meaning, for example, application of treated sludge from municipal sewage treatment plants. Many municipalities have no say in whether those materials are applied on lands in their community, even if they're close to an important well field, for example, in their community, so they feel quite powerless in that respect. We suggest that Bill 81 must strengthen and clarify these municipal powers.

The need for clear legislative objectives and standards: at the moment, the bill does not include a purpose statement. We suggest it should include a purpose statement, including protecting environment and public health, broadly stated. It should include a couple of the items specifically noted by Justice O'Connor in terms of consideration of the presence of microbes and other constituents of manure and their impact on drinking water sources and requiring consistency of nutrient management plans with watershed-specific information.

Finally, we made other suggestions in our original brief that I want to mention. Bill 81 should be amended to prohibit delegation of powers and duties to non-crown employees. It should bring the Nutrient Management Act approvals under the Environmental Bill of Rights to allow for public participation, increased offence provisions and removal of certain exemptions and exceptions that the agricultural sector enjoys from environmental laws at present and repeal of the Farming and Food Production Protection Act, which in our submission would no longer be needed after Bill 81 and Mr Justice O'Connor's recommendations.

The Chair: Thank you very much. That affords us about four minutes for questioning. Actually, do we have anyone from the Sierra Legal Defence Fund here? Oh, we do. OK. Then we'll have time for one quick question. I'll give the three minutes to Ms Churley, but it's a strict three minutes.

Ms Churley: Thank you. I will share it with you if you'll be really quick. You seem to have a question.

Mr Peters: No problem.

Ms Churley: Thank you very much for appearing on such short notice. Mr Muldoon, you were very intimately involved in the Walkerton inquiry so, you probably have more awareness of the report than we do at this point, given that we still haven't read it all. You talk, and others are talking, about being consistent with source protection plans. How do you envision that being developed by the government in terms of this and other legislation that Judge O'Connor recommended? He recommended four pieces of legislation to encompass all of his recommendations.

Ms McClenaghan: If I could deal with that.

Mr Muldoon: Sure.

Ms McClenaghan: His recommendation did envisage four pieces of legislation, one of which would have to provide for the requirement for municipalities and CAs to develop watershed-based source protection plans. That could, for example, be under an amended Environmental Protection Act, as he mentioned. It would have to go into one piece of legislation somewhere, and then the other kinds of legislation that would have to be consistent include the nutrient management plan and also other Environmental Protection Act approvals like sewage treatment plant certificates of approval, which he specifically mentioned, and water-taking permit approvals under the Ontario Water Resources Act, which he also mentioned. He's suggesting the watershed plans should be broader than drinking water sources but at a minimum should provide for the protection of drinking water sources on a watershed basis.

Mr Muldoon: The important thing is that, as mentioned, you're at a crossroads here. You can implement an important feature of part two of the Walkerton Inquiry report through this legislation, and it would be a shame if that opportunity wasn't seized upon. Your question really points to the fact that we've got a novel opportunity here to make real progress implementing the report through Bill 81.

The Chair: Thank you both for coming before us here this afternoon. We appreciate your comments.

1740

SIERRA LEGAL DEFENCE FUND

The Chair: Our final presentation of the afternoon will be the Sierra Legal Defence Fund. Good afternoon and welcome to the committee. Please proceed.

Dr Anastasia Lintner: First, I'll just apologize for coming in so late, and I will thank you for permitting me the opportunity to speak today to the committee on general government.

My name is Anastasia Lintner. I have a PhD in natural resource and environmental economics from the University of Guelph. I'm speaking today on behalf of the Sierra Legal Defence Fund primarily because I was involved last summer in developing the comments that the Sierra Legal Defence Fund submitted to the Environmental Bill of Rights process, and I also made some previous

statements last fall. I'm here today to speak on behalf of the Sierra Legal Defence Fund. Jerry DeMarco, our managing lawyer, requested that I come by, and I didn't actually get that request till this morning, so I apologize if I seem a bit scattered.

I hope you have in front of you a cover letter from Mr DeMarco and an attachment that is our proposals as of last summer when we submitted them to the EBR process. The Sierra Legal Defence Fund continues to rely on these comments. Our general concern is that Bill 81, as it stands, does not provide the appropriate mechanism for environmental protection that we would very much like to see.

Since we submitted the EBR comments last summer, of course you are well aware from the presentation that just came before me that the second Walkerton report has been issued. There are several recommendations, particularly within chapter 4 of that report, that the Sierra Legal Defence Fund also agrees should be incorporated into this particular legislation before it goes forward, with the exception regarding the recommendation that municipalities have no authority once the process is put in place. We believe municipalities should have the ability to provide protection for water concerns of a stronger or more stringent measurement that would reflect local circumstances and source protection. With that exception, we would put forward the recommendations of Justice O'Connor.

I don't want to spend a whole lot of time going through every individual recommendation, but I would just point out that the Sierra Legal Defence Fund believes the legislation would be strengthened if some of the substantive issues were brought into this legislation, making it something more than just enabling legislation, things like the requirement for approvals of prepared nutrient management plans and nutrient management strategies, that there would be requirements right in this act that the farmers would not be able to apply nutrients without those plans being in place and approved. I think that would then make the legislation focus more on not only the efficient use of nutrients but also on the watershed protections or the water source protections that would benefit water quality.

With that, I'd like to not take up any more of your time talking about what our specific recommendations are but would entertain particular questions, if you had them.

The Chair: Thank you. We have about three and a half to four minutes. This time we'll give it to the government caucus.

Mr Barrett: You indicate the position that municipalities should have more authority than is proposed in Bill 81. I understand that runs counter to Justice O'Connor's approach. In my view, this is all about water. Water does not follow municipal boundaries, whether we're talking about surface water or something we often forget about, underlying groundwater or aquifers, which certainly cover a number of township boundaries or even upper-tier municipalities.

How can we square that? Provincially the problem has been identified as what's described as a bit of a hodge-podge of municipal bylaws, oftentimes not based on scientific evidence or based on knowledge of an underlying aquifer or perhaps having little relevance for the watershed. Many municipalities may be part of a single watershed. Could you comment on that? Do you agree this is all about water?

Dr Lintner: The Sierra Legal Defence Fund is interested in environmental protection. We're interested in protecting water quality. I appreciate your comment that the water doesn't follow our municipal political boundaries. The concern I have is that a municipality that did act in a manner that reflects good science and local water quality issues may be found to have an inoperative law under the prohibition that's in Bill 81. I agree that having good standards that are applied across the province and reflect appropriate science and watershed features is what we would be aiming for.

Taking away the power of a local municipality to address those exact issues in the interim while the regulations are being put together and promulgated would not be in the best interests of protecting water quality.

Mr Barrett: I see. In the interim, yes, OK.

Dr Lintner: What Justice O'Connor envisions I think is that the watershed source protection plans would have been developed with a great deal of municipal-conservation authority participation and they would reflect their concerns and reflect the good science and then once they're in place, perhaps that would be the situation where you would say that the municipalities need not have their own bylaws in that area. We don't need to have more than one law in the same area. But in the meantime, as we've seen in the case in Hudson with pesticides, a local community that is thinking about these issues should have the power to do so.

Mr Barrett: I'm not a lawyer, but it certainly looks like there is the potential for a municipality to perhaps overthrow provincial jurisdiction like that Hudson situation. I'm not suggesting that water strictly follows the boundaries of Ontario. For example, I think virtually

all of the city of Winnipeg's drinking water comes from a lake that is 90% located not in their province but in Ontario.

There has been considerable discussion of a role for conservation authorities which are based on watersheds and other than maybe the state of Tennessee I think it's perhaps the only set-up like that in North America. I assume many conservation authorities don't follow aquifers because aquifers, I'm assuming, can flow in different directions than, say, the surface watershed. As I understand it, Justice O'Connor feels that this bill in its present form will accomplish the goals as far as nutrient-containing materials. Do you feel there is an enhanced role for conservation authorities?

Dr Lintner: That's something that I haven't had the opportunity to think about. If there were additional comments that the Sierra Legal Defence Fund wanted to put in on that issue, I could talk to the staff about that specifically. We hadn't envisioned that when we submitted our—

Mr Barrett: We certainly recognize the importance of local input. Not all of these decisions are to be transferred and made at Queen's Park. Within this legislation there is mention of local advisory committees, albeit advisory committees would be representative. I guess I'm suggesting local input certainly from local advisory committees which may well be based on municipalities, perhaps on conservation authorities.

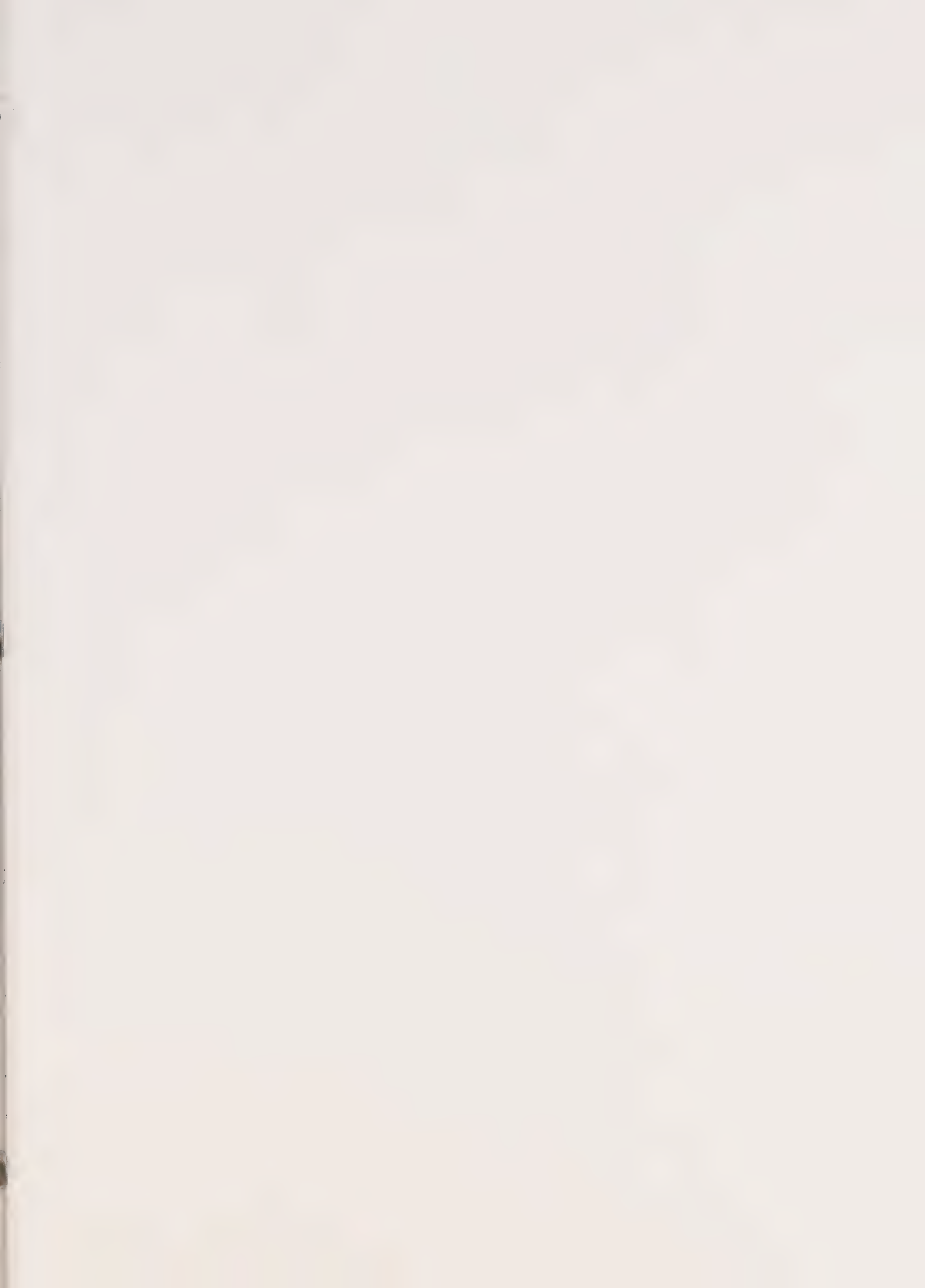
The Chair: Thank you very much.

Ms Churley: Can I say one quick thing? I started off this meeting being somewhat critical of the minister in terms of what's in our binder. I want to end it on a high note and note that Minister Johns was here for the entire hearings this afternoon, and that's much appreciated.

The Chair: Nice to see that balance, Ms Churley. Thank you, Minister, for joining us today. Thank you to everyone who reacted very quickly and responded to the call for presenters.

The committee stands adjourned until 3:30 on Monday afternoon.

The committee adjourned at 1751.



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of Ontario**

Third Session, 37th Parliament

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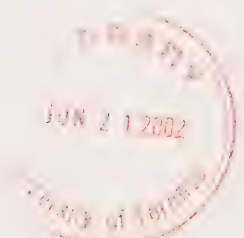
Lundi 3 juin 2002

**Standing committee on
general government**

Nutrient Management Act, 2002

**Comité permanent des
affaires gouvernementales**

Loi de 2002 sur la gestion
des éléments nutritifs



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ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

STANDING COMMITTEE ON
GENERAL GOVERNMENTCOMITÉ PERMANENT DES
AFFAIRES GOUVERNEMENTALES

Monday 3 June 2002

Lundi 3 juin 2002

The committee met at 1558 in committee room 1.

ORGANIZATION

The Chair (Mr Steve Gilchrist): I call the standing committee on general government to order for the purpose of clause-by-clause consideration of Bill 81. First, we have some organizational matters, and we'll turn to Mr Miller.

Mr Norm Miller (Parry Sound-Muskoka): I move that the membership of the subcommittee on committee business be revised as follows: that Ms Churley be appointed in place of Mr Prue and that Mr Dunlop be appointed in place of Mr Chudleigh.

The Chair: Any debate? Seeing none, all those in favour of the motion? Opposed? It's carried.

NUTRIENT MANAGEMENT ACT, 2002

LOI DE 2002 SUR LA GESTION
DES ÉLÉMENTS NUTRITIFS

Consideration of Bill 81, An Act to provide standards with respect to the management of materials containing nutrients used on lands, to provide for the making of regulations with respect to farm animals and lands to which nutrients are applied, and to make related amendments to other Acts / Projet de loi 81, Loi prévoyant des normes à l'égard de la gestion des matières contenant des éléments nutritifs utilisées sur les biens-fonds, prévoyant la prise de règlements à l'égard des animaux d'élevage et des biens-fonds sur lesquels des éléments nutritifs sont épandus et apportant des modifications connexes à d'autres lois.

The Chair (Mr Steve Gilchrist): With that, we'll turn our attention to the bill. Since there is a new section, 0.1, Ms Churley, we'll start with you.

Ms Marilyn Churley (Toronto-Danforth): I move that section 0.1 of the bill, as amended by the standing committee on justice and social policy before second reading, be struck out and the following substituted:

"Purpose

"0.1 The purposes of this act are:

"1. To regulate the potential impact of agriculture on sources of drinking water.

"2. To provide for the management of materials containing nutrients in ways that will enhance protection of the natural environment and human health and will pro-

vide a sustainable future for agricultural operations and rural development."

The Chair: Ms Churley, before you comment—and I look forward to your comments on the section—the clerk and I, in reflecting on the parameters within which amendments can fall, both are of a mind that paragraph 1 is outside the purview of this act because you broaden the scope beyond the intent of the act, which is the application of nutrients.

I would consider your second clause to be in order, but the first clause, because you say "potential impact of agriculture" as opposed to "potential impact of the application of nutrients," the specific topic of this bill, is too broad. I want to allow you the opportunity to speak to the second portion of your motion, but I must rule that paragraph 1 is out of order.

Ms Churley: OK, I will speak to the second part and explain why I have changed the purpose of the act. I believe I did that when we went through this previously in committee as well, but now that part two is out, Judge O'Connor is clearly concerned that the Nutrient Management Act doesn't deal with other aspects of agriculture that could threaten our drinking water, such as the handling of pesticides and fuels. Judge O'Connor actually suggests changing the purpose of the act to regulate any potential impacts of agriculture on drinking water sources.

I understand that's been ruled out of order, but I do want to say for the record that I changed that clause to reflect Judge O'Connor's recommendations. The Conservative government and Premier Ernie Eves said the government would be implementing every single one of those recommendations. If that's ruled out of order and not allowed, then that's one down. It will not be fulfilled by this government. That is why it was there.

We're introducing two amendments: one to add Judge O'Connor's suggestion, the purpose of the clause, and the other one to add "pesticides and fuels" to the list of materials to be considered in or included in nutrient management plans. The reason why those are added is again to strengthen the purpose of the act so that indeed it doesn't just refer to the nutrients, but refers as well to "natural environment and human health." That is exactly why I've expanded that to include the environment and human health, again as a result of Judge O'Connor's report and recommendations.

I would submit that it's really unfortunate therefore that we can't have unanimous consent to agree to allow

part 1 of my amendment to stand so that we can indeed fulfill Judge O'Connor's recommendation. That is why the purpose of the act has been changed in both paragraphs 1 and 2 where I'm asking for it to be changed directly to the extent that we can, given such a short time to reflect the recommendations of Judge O'Connor. I find it unfortunate that we've had such little time. I'm sure we would all agree, including the minister, that we have been given a limited amount of time to try to make amendments reflecting those recommendations, but again I don't know if there is an ability to ask for unanimous consent—I believe there is—to allow paragraph 1 of 0.1 as I propose to stand. Can I ask for unanimous consent to do that?

The Chair: You can certainly ask for that.

Ms Churley: I would ask for unanimous consent to allow paragraph 1 of 0.1 to stand and at least take a vote on it so that we can, as a committee, reflect a direct recommendation from Judge O'Connor.

The Chair: Is there unanimous consent to overturn my ruling that said paragraph 1 is out of order? I heard a no.

Ms Churley: Is it too late to ask for a vote on that?

The Chair: It's not a votable issue. You've made a request. It's not like in the House. There are not five of you standing in your place.

Ms Churley: That's one Judge O'Connor recommendation down, gone, not being fulfilled. OK. Thank you.

The Chair: Further debate? Seeing none, I'll put the question.

Ms Churley: Recorded vote, please.

The Chair: Thank you, Ms Churley. Again, it is the motion you see before you marked number 1 in your packet, except for sentence number 1.

Ayes

Churley, McMeekin, Peters.

Nays

Barrett, Dunlop, McDonald, Miller.

The Chair: The amendment fails.

Number 2 in your packet, and we would now be in section 1. That's a Liberal motion.

Mr Steve Peters (Elgin-Middlesex-London): I move that the definition of "agricultural operation" in section 1 of the bill, as amended by the standing committee on justice and social policy before second reading, be amended by adding "or the operation of a golf course" after "silvicultural operation."

During the discussions last week with a number of the presenters, what we heard as we travelled around the province was that golf courses were also operations that applied significant amounts of nutrients to their golf courses. Feeling the importance that we need to ensure

that all those users of nutrients are treated equally, hence this amendment is in front of us.

The Chair: Further debate? I beg your pardon; just one second.

The clerk just tells me that we should actually have voted on section 0.1. So, again, the amendment was defeated, but we're now voting on the actual section 0.1 in the act.

All those in favour of section 0.1? We're voting on the section in the act.

Mr Toby Barrett (Haldimand-Norfolk-Brant): This is NDP motion number 1?

The Chair: No. That's why I want to make sure, because traditionally we don't have a 0.1 in the printed version. It's normally something that just comes before the committee. In the act as it stands—

Ms Churley: You're allowed to vote for—

The Chair: But in fairness to all members, because this is the first time I can recall in a long, long time that a printed act has a 0.1: there is a section in the act already that is numbered 0.1. So you would be voting for a section that's in the act, not Ms Churley's amendment.

All those in favour? Opposed? Section 0.1 carries.

Now we're back to section 1. Further debate on Mr Peters's motion?

Ms Churley: I support the proposed amendment. I also put in such an amendment. It's not just the opposition requesting that this be added but one of the farm groups also expressed—and I don't have my records in front of me. Do you remember who it was, Steve?

Mr Peters: The dairy farmers.

Ms Churley: The dairy farmers, Mr Peters says, requested as well that other operations rather than just agricultural operations be included in this. It's a matter of fairness, but it's also a matter of protection of the environment. As Mr Peters says, golf courses do use an awful lot of so-called nutrients and they're often near water sources.

Mr Ted McMeekin (Ancaster-Dundas-Flamborough-Aldershot): Just briefly, I intend to support the amendment, obviously, and if there are reasons for it not to be supported, I would sure like to hear them.

Mr Barrett: As far as reasons for not supporting this amendment, I think they would be similar to what was felt to be the inappropriateness of this amendment the last time this came up in the standing committee on justice and social policy. It is felt to be not appropriate that all regulations that are designed for agricultural operations be applied to golf courses, or for that matter baseball diamonds or large lawns. Further to that, the definition of an agricultural operation currently includes "agricultural, aquacultural, horticultural or silvicultural operation." It lists examples of farming activities such as "growing, producing or raising farm animals ... the operation of agricultural machinery and equipment ... the processing by a farmer of the products produced primarily from the farmer's agricultural operation."

The inclusion of a golf course in this definition is not appropriate. We feel it would not add clarity to the act. However, having said that, the present wording of the act would allow for regulations to be developed to apply to golf courses. Again, the current definition of "nutrient"—we are dealing with nutrients here, not pesticides or other substances; I know that came up in previous debate—allows for regulations to prescribe other uses besides the growing of agricultural crops. Conceivably, that could apply to golf courses, municipal parks or baseball diamonds under regulation.

1610

The Chair: Further debate?

Mr Peters: If it's something that could potentially be covered in the regulations, I think it would be better to have it in the actual legislation so that we know definitely golf courses are covered. We have heard comments made that golf courses, in the government's opinion, don't fit into an agricultural operation. Could the honourable member perhaps explain to me how a sod farm, which is grass growing on land, much like a golf course is grass growing on land, and a golf course are different?

Mr Barrett: I've also indicated other examples, but where do we end the list? This amendment would list only one secondary area, golf courses, and if this one is included, then one would reasonably expect a full list from anyone who wishes to have an amendment like this with respect to what the other secondary uses would be.

The feeling is, it's better dealt with under regulation. We feel this proposed amendment could add confusion to the development of regulations that would be written to apply to agricultural operations and would, by default, take in golf courses as well. The current wording of this act does allow the flexibility. However, it clearly retains the focus on the primary area this legislation deals with, which is agricultural land.

Mr Peters: I request a recorded vote, please.

The Chair: Request for a recorded vote.

Mr Al McDonald (Nipissing): I was a little confused with the addition of the operation of a golf course. Being new here, I can think of about six golf courses that are around where I live, and only one of them is near water, yet both lakes—

Mr Peters: Is that Osprey Links?

Mr McDonald: Both lakes are heavily developed. In other words, there are lots of properties that have big lawns. I haven't looked it up in the dictionary, so I don't know what the technical definition of a golf course is. I guess what Mr Peters's amendment to it is, why are you then ignoring large yards? Why aren't you asking for the average homeowner who lives on a lake and who's putting on fertilizer to be included in this?

Ms Churley: In fact, as I understand it, the answer to that is that's already regulated under the Pesticides Act.

Mr McDonald: Fertilizer?

Ms Churley: My amendment to the purpose of the clause is that pesticide use in particular has been taken out because the government wouldn't support a further definition for the purpose clause of the bill, but I would

submit that we know golf courses are very large and use a tremendous amount of so-called nutrients and pesticides. Again, I want to bring us back to the thesis and the framework which I think this bill should uphold, and that is to protect—although that amendment failed as well. We have to bear in mind throughout this whole thing Judge O'Connor's second report on Walkerton and do everything within our power here to make amendments, to fulfill those recommendations and to protect the environment and the health of Ontarians.

Mr Barrett: I just want to point out that fertilizer will be regulated by the Nutrient Management Act. Fertilizer, to my knowledge, is not classified as a pesticide in the sense that a fungicide, an insecticide or a herbicide is clearly under the Pesticides Act. Commercial fertilizer, nitrogen, phosphorous and potash, is really a chemical form of animal manure—

Mr Peters: Nutrients.

Mr Barrett: —or nutrients.

Ms Churley: It's a nutrient.

Mr Barrett: Yes, it's a nutrient, not a pesticide.

Mr Norm Miller (Parry Sound-Muskoka): Mr McDonald certainly raises a good point, that in his situation lawns really are not covered in terms of individuals going to Canadian Tire or their Home Hardware store and purchasing their own fertilizer and putting it on their own lawns. Obviously individual homeowners are not experts at applying the correct amount of fertilizer. I think probably most golf courses are quite professional and a lot more expert in terms of the application of fertilizers. I think Mr McDonald has certainly pointed out an area that maybe needs to be dealt with in another act.

Mr Peters: We know how much the government likes golf courses, and I'd love to see it dealt with. I would have loved to have seen it dealt with in this act. I guess the difference between a residential property and a golf course is that somebody is not making a profit. A farmer is, hopefully, making a profit off agricultural land, as is a golf course making a profit from that land, and a residential homeowner isn't.

Mr Barrett: As a government member, I do admit to going golfing twice, but that was in grade 11. I'm not that familiar with golf courses and need not be stereotyped.

One further clarification—and we are trying to eliminate as much confusion as possible, but I will mention that there is a federal fertilizer act, and I suspect that probably relates to labelling and those kinds of standards. So we may want to blame this on the feds.

Mr McMeekin: For the edification of the member, I'm a frequent golfer and I have a preferential inclination to go to those courses which have acknowledged that golf courses are a really huge contributor to environmental mismanagement. I don't know if the member knows this, but there is a green golf association, which is growing quite enthusiastically across the—

Interjection: No pun intended.

Mr McMeekin: Green as in green green, not Green green, yes. For what it's worth, as one who golfs frequently. I haven't been up to Osprey yet. I have to check that one out.

Mr Barrett: I will say that I fully support a serious look at regulations to be developed to take a hard look at golf courses, and we can do this through this Nutrient Management Act.

Mr Garfield Dunlop (Simcoe North): I just want to say for Mr Peters that I actually golfed twice on the weekend. I didn't want anybody to think that Toby—

The Chair: I'm glad we've all had an opportunity to get our recreational interests on the record. Any further debate? Seeing none, I'll put the question. Mr Peters has asked for a recorded vote for Liberal motion number 2.

Ayes

Churley, McMeekin, Peters.

Nays

Barrett, Dunlop, McDonald, Miller.

The Chair: That amendment fails.

The third motion is also yours, Mr Peters.

Mr Peters: I move that the definition of "minister" in section 1 of the bill, as amended by the standing committee on justice and social policy before second reading, be struck out and the following substituted:

"'Minister' means the Minister of Environment and Energy, unless the context requires otherwise."

This is taken directly from the Walkerton report recommendation number 11. Mr O'Connor: "The Ministry of the Environment should take the lead role in regulating the potential impacts of farm activities on drinking water sources. The Ministry of Agriculture, Food and Rural Affairs should provide technical support to the Ministry of the Environment and should continue to advise farmers about the protection of drinking water sources."

I think it's imperative that we be very clear in this act right in the definitions as to who is the lead ministry responsible, hence we put forth the Ministry of the Environment and Energy.

The Chair: Further debate?

Mr Barrett: Are we not going in rotation or do we just jump in?

The Chair: It goes on the function of who puts their hand up.

Mr Barrett: Again with respect to Liberal motion number 3, we feel it's not necessary to specify in this Nutrient Management Act which minister has the lead. This can be done by an order in council at a later time. We feel that the flexibility in this regard is very important, recognizing that both the Ministry of the Environment and Energy and the Ministry of Agriculture and Food have been partners in the development of this legislation, to my knowledge, from the beginning of the year 2000. We feel it's prudent that a joint lead continue as the regulations and approval strategies are developed and implementation begins.

1620

Ms Churley: I speak in support of this amendment. Judge O'Connor's recommendation on 11, from the second report, states very clearly, and I quote, "The Ministry of the Environment should take the lead role in regulating the potential impacts of farm activities on drinking water sources." This is an amendment that had been put before the committee pre-Walkerton report part two, and it failed at that time. I believe now, though, with Judge O'Connor's statement—I want to remind the members that Judge O'Connor is wary of the potential conflict of interest, having nutrient management under the jurisdiction of the ag ministry.

I also want to remind the members of the committee that the MOE has the regulatory lead for all other aspects of drinking water management. Judge O'Connor's concern was that allowing the continuing fragmentation of responsibilities for water protection could lead to a lack of clarity—even more of a lack of clarity than we have now—about roles and responsibilities and could reduce the effectiveness of water protection enforcement.

Again I want to remind all members of the committee that this bill almost passed in the House, or at least the government, and the Liberals at that time, were pressing to have it passed that evening. I understood the concerns, because we all want to get this act on the books and get started. But on the other hand, I was aware that this report was coming down. There were a lot of submissions before the inquiry in regard to this area, nutrient management. I was well aware that Judge O'Connor would be making recommendations vis-à-vis this act. Indeed, he has made very clear recommendations.

I just want to say to the committee that we now have another kick at the can with those recommendations in front of us. Your Premier has said that the government will fulfill all of those recommendations. Here is an opportunity now to show in good faith that you're about to do that.

I will close by saying that one of the things Judge O'Connor is trying to do is to clarify the roles of ministries and bring more consistent and transparent oversight to who regulates our drinking water. So it's inconsistent, after that report, for government committee members to vote against this amendment, which would fall more in line with the direct recommendations from Judge O'Connor.

Mr Barrett: I will comment, in light of Justice O'Connor's recommendations, that we do wish to make it very clear that we are committed to tough provincial enforcement of this proposed Nutrient Management Act. This is the first time in Ontario's history that the proposed Nutrient Management Act will give us clear authority to set and enforce standards for environmental protection for the management of land-applied materials as it relates to agricultural operations. In line with other environmental legislation and perhaps proposed new environmental legislation, provincial officers specially trained in not only environmental protection but also in agricultural practices will be there to enforce this

legislation. They will have the authority to inspect and issue compliance and prevention orders.

The Chair: Further debate?

Mr McDonald: Just a question: it states here in the amendment "the Minister of Environment and Energy." What happens if those two portfolios get separated?

The Chair: The clerk is inquiring right now. It's my understanding that they are separate even now. We have a common minister. I wouldn't rule the verbiage that's in there out of order right now, but it's my understanding that there still is a separate Ministry of the Environment and a Ministry of Energy. They may have a common minister today, but elsewhere in the amendments we find reference to "the Ministry of Environment and Energy." I'm just seeking clarification on that, but you've raised a valid point.

Obviously, none of us can assume what Justice O'Connor meant in his report, but I think it would be a safe assumption that it's the environment side, not the energy side, that he felt relevant.

Mr Peters: You'll note that both this motion and the following motion are exactly the same. When our information, our amendments—and I'm sure the NDP's—were taken to legislative counsel, they researched this and this was the wording that legislative counsel provided.

The Chair: I'm not critiquing you, Mr Peters. Again, because there is today a minister of both, it certainly is in order. I'm just seeking clarification of a subsequent amendment where they use the term "ministry," the singular. But we don't have to worry about that one until we get to that one.

Mr Peters has asked for a recorded vote.

Ayes

Churley, McMeekin, Peters.

Nays

Barrett, Dunlop, McDonald, Miller.

The Chair: That amendment is lost.

Amendment number 4 is in fact a duplication of number 3, therefore it is out of order.

Ms Churley: People might have changed support.

The Chair: There's always that opportunity, Ms Churley.

Ms Churley: We can try.

The Chair: Shall section 1 carry? Section 1 is carried.

Any amendments or comments to section 2? Seeing none, shall section 2 carry? Section 2 is carried.

Section 3 takes us to amendment number 5 in your packet, a Liberal motion. Mr Peters.

Mr Peters: I move that subsection 3(1) of the bill, as amended by the standing committee on justice and social policy before second reading, be struck out and the following substituted:

"Provincial officers

"(1) The Minister may, in writing designate as provincial officers persons or classes of persons from the following categories:

"1. Employees of the Ministry of Environment and Energy.

"2. Employees of the Ministry of Agriculture and Food who have specialized expertise making it desirable for them to have the powers of provincial officers.

"3. Employees of conservation authorities."

You'll notice that this amendment deletes clause (c) of the proposed legislation. We've expressed a great deal of concern about clause (c) and I was pleased to hear the member just say—maybe this means we're going to be supporting it, because Mr Barrett just said, "We are committed to tough provincial enforcement."

What we're concerned about is the provision for alternative delivery providers, ie, privatization of enforcement, the provincial officers being privatized. The intent of this amendment that is in front of us here is to make it clear that these are government employees and that the intent of this legislation is that it will be enforced by government employees or conservation authorities, which are true creatures of the province, and to not in any way have this authority delegated to alternative service providers.

The Chair: Further debate?

Mr Barrett: I'll reiterate that we are committed and continue to be committed to tough enforcement. But this motion, as I see it, is designed to limit those employed as provincial officers to only employees of the provincial government or conservation authorities. Again I raise the issue of the need for flexibility and that this amendment would restrict flexibility in the implementation of the bill and would constrain the ability of the government to complete necessary tasks under the act.

The existing wording to subsection 3(1)(c) without this amendment already allows for the appointment of persons who are not ministry employees, such as conservation authority staff and others.

Mr Peters: But read on.

Ms Churley: I just want to state for the record that I strongly support this amendment. My understanding now, from attending most of the previous hearings on this bill and an afternoon recently, is that we had such a recommendation come from some, if not all, of the main organizations. If asked, they want this to stay in public hands.

The Chair: Seeing no further debate—

Mr Peters: Recorded vote, please.

The Chair: Mr Peters has asked for a recorded vote on Liberal motion number 5.

Ayes

Churley, McMeekin, Peters.

Nays

Barrett, Dunlop, McDonald, Miller.

The Chair: That amendment is lost.

Shall section 3 carry? Section 3 is carried.

Any amendments or comments to section 4? Shall section 4 carry? Section 4 is carried.

That takes us to section 5. That would be amendment number 6. Again, for reasons similar to the first amendment we dealt with, because the motion expands the scope of the bill by requesting protection from all possible sorts of contamination, in conversation with the clerk we've come to the conclusion that this amendment is out of order.

That will take us, Ms Churley, to your amendment, number 7 in the packet.

1630

Mr Peters: It's right in the Walkerton report, Mr Chair.

The Chair: Mr Peters, I can be sympathetic about the content, but I am constrained by the rules governing the operation of committees and how bills are created, that we at the committee level cannot change the scope of a bill that's before us at this stage. It's not a question of whether or not there's supporting documentation somewhere else. We are constrained just by the standing orders and the precedent as to what any committee can do dealing with the topic covered by bills.

Ms Churley: I move that section 5 of the bill, as amended by the standing committee on justice and social policy before second reading, be amended by adding the following subsection:

"Categories of operations

"(2.1) A regulation made under subsection (2) requiring the preparation of nutrient management plans shall provide that the following plans must be filed with and approved by the Minister of the Environment and Energy:

"1. Plans for intensive agricultural operations.

"2. Plans for agricultural operations that, because of their location, provide a larger than usual risk of endangering sources of drinking water."

The Chair: Do you wish to speak to your motion?

Ms Churley: Yes. We are moving this amendment again based on recommendations from Judge O'Connor. I want to say again that I think it's unfortunate that some of these amendments—the previous one, for instance, which was ruled out of order. It's for procedural reasons and that is because we really didn't have time, since that report has been submitted to the public by Judge O'Connor, to take these recommendations into account and try to reach some kind of unanimous consent. It's all happened too much in a hurry and it's really unfortunate that we're missing an opportunity to strengthen the act, particularly in the case of the previous amendment put forward by the Liberals and my changing of the purpose of the act. They are being ruled out of order because they don't fit in under the rules. However, there is an opportunity to give unanimous consent to allow those amendments to come forward.

The reason why I have placed amendment 7 is because it states that the MOE is responsible for all aspects of

approval, monitoring and enforcement of nutrient management plans. I'm reading the wrong—I'm sorry, Mr Chair. Just give me a second here. It's the same argument as made before, that it should be the Ministry of the Environment overseeing this very important area of protecting our drinking water.

The Chair: Further debate?

Mr Peters: I support the intent of the amendment that's in front of us. I have difficulty with the second paragraph, "because of their location." In particular, I have a problem with the word "location" because I just think it is too broad. If you look through O'Connor's report, he consistently talks about sensitive areas. I think we should be trying to follow these sensitive or high-risk areas as pointed out in the Walkerton report and not leave it broad-based with the word "location."

Ms Churley: Just for clarification—and I hear what you're saying, but again I'm leaning on Judge O'Connor's recommendations here and he did recommend, as I understand it, a two-tier system for regulating nutrient management plans. He talks about a standard plan and a more stringent plan for farms that, in his view, pose a higher risk to drinking water because of—and again in his words—"farm size, intensity or location."

I'm going to read a quote from Judge O'Connor: "All large or intensive farms, and all farms in areas designated as sensitive or high-risk by the applicable source protection plan, should be required to develop binding individual water protection plans consistent with the source protection plan." He goes on to recommend that those plans be filed with the Ministry of the Environment.

That's why I've introduced such an amendment that requires all these NMPs for large and intensive farms and for all farms deemed to be in high-risk areas to be approved by and filed with the MOE. It's again a direct recommendation from Judge O'Connor. I recognize the issue before us is that these plans have to be worked out. There are those who argue that it doesn't matter what the size is or the location as long as the rules coming out of the Nutrient Management Act are followed, but I believe, because of what Judge O'Connor looked at and other submissions made to him, that there is evidence of higher risks in some areas and from some of the larger intensive farming locations than others. Again, I'm just informing the committee that this recommendation is based directly on a recommendation from Judge O'Connor.

Mr Barrett: Ms Churley is stating it should be the Minister of the Environment. Again, we feel it's not necessary to decide this at this time. This can be done later. The flexibility is there. It can be done through order in council, ever bearing in mind that expertise lies certainly in the Ministry of Agriculture and Food and also the Ministry of the Environment and Energy. They've been working on this for a number of years, and this joint lead continues. Expertise lies within staff of the Ministry of the Environment. I say that as a former PA to that ministry. It lies in the staff of the Ministry of Agriculture and there is expertise in many other people

who may not necessarily be employed by either one of those ministries.

Mr Peters made mention of sensitive areas. We are aware of sensitive areas that oftentimes may be as a result of soil type or proximity to municipal water wells, wellheads or a location near an aquifer or a watercourse. That, in my mind, is clearly identified in this legislation in clause 5(2)(r). I'd like to just read this very brief section. I feel this is, in one sense, the jewel in the crown of this legislation, and I quote:

“(r) requiring that studies be conducted in relation to the use of materials containing nutrients on lands, including topographical studies”—my understanding is that would certainly relate to the movement of surface water—“and studies to determine soil types”—obviously in my riding there's a very clear distinction in characteristics between heavy clay in Haldimand and Norfolk sand on the Norfolk sand plain—“and studies to determine the depth, volume, direction of flow and risk of contamination of water located on, in and under those lands.” In my view, clause (r) alone covers any sensitive area that I'm aware of.

Mr Peters: As I said before, I agree with the intent. I have a problem with the word “location” because over and over Mr Justice O'Connor talks about areas designated as sensitive or high risk. I would have preferred to see this source protection plan identified and written right into this amendment and not leave it broad-based with just the word “location.” He talks about source protection plans, he talks about the sensitive and high-risk areas. I'd like to see this amendment passed, but if we could somehow amend the amendment to include source protection plans and sensitive and high-risk areas I think it would be easier for me and my colleagues to support.

1640

Mr McMeekin: Just for clarification, I don't think there's anybody in this room who for one minute would hesitate to applaud the efforts of Justice O'Connor and, generally, the recommendations that were made. I think our new Premier said early on that he wanted to ensure that action was taken quickly.

I guess my question is just a process one. Given the very appropriate rhetoric—and appropriate rhetoric is rhetoric that is obviously going to find its way into the legislation or regulation—has the government had any conversation about—and, if so, can they tell us about it—the vetting of this legislation in relation to Justice O'Connor's recommendations? I don't have a lot of problems with the regulatory process as long as we have the right look in our eyes, right? I think that's the key. So has the government had that discussion about the need to produce a regulatory regiment consistent with and cognizant of the recommendations of Justice O'Connor?

Mr Barrett: There's no question the government has reviewed the report, both phase 1 and phase 2. There have been a number of statements from the government on the direction that we're taking and taking very seriously those several recommendations that came out of both phase 1 and phase 2.

Mr McMeekin: The member opposite makes my point. I think, given the seriousness of both the concern and the recommendations which have come back to address that, it seems that the knock on the bill is, are we moving too quickly? Are we moving too slowly? Is it cognizant of all the other things that are going on? How do we, as responsible legislators, put in place a responsible piece of legislation which is going to fit the cloth, suit the needs?

It would seem to me that an undertaking on the part of the government to be intentional about vetting the O'Connor report and ensuring, as the regulations are developed, that they be reflective of the spirit and the intent of the report would go a long way toward satisfying some ambivalence that some of us may have.

Mr Barrett: Certainly as of the publication of the O'Connor report, he did comment directly on this particular piece of legislation. Quoting Justice O'Connor, “With respect to nutrient-containing material, the Nutrient Management Act, if passed in its present form, would certainly provide the province with the authority to create the tools it would need to develop the farm water protection planning system that I am recommending.”

Mr McMeekin: I have no problem with Judge O'Connor having the right look in his eye and in his approach and, frankly, that isn't meant to imply that I have any belief that members opposite have the wrong look in their eyes. I'm just wanting to get some assurance, acknowledgement, that his making that statement is heard and will be reflected in the regulations around the legislation. That's all I'm looking for.

Mr Barrett: Certainly. And through that, and with respect to the regulations, the government has indicated that there will be a full consultation on the regulations. I know this has been requested by both the Liberals and the NDP in previous hearings. A questionnaire has been sent out by the Minister of Agriculture to well over a thousand key stakeholders and, as I understand it, meetings will be held within a month or so. I would assume both the parliamentary assistant to agriculture and perhaps the parliamentary assistant to the environment would be involved, as has been the case in the first round of consultations I was involved in at the beginning of the year 2000.

Mr McDonald: We all understand that there is good intent. I just want to be on the record as stating that when I read the bill—it's very exact; the language is very concise and you know exactly what it is or what's required of you. I guess what I'm finding in some of these amendments is some confusion or grey area, like “intensive agricultural operations.” I don't know what the difference between “intensive” or “strong” agricultural operations would mean, if you would be able to get out of the act because “intensive” really isn't defined, and I'm not a lawyer.

The other point would be “provide larger than usual risk.” I don't know how that gets applied in an act or a

bill and how you define "larger than usual risk." What is that definition?

When we're looking at these amendments that are going into these bills, it makes it very difficult.

Mr Barrett: Further to that, I fully recognize that this piece of legislation and the regulations are not the be-all and the end-all. We are taking, and society in Ontario requires government to take, a very all-encompassing approach and look at water, especially in light of the reasons for the O'Connor inquiry. Subsequent to the disaster in Walkerton, the government launched what was referred to as Operation Clean Water, a very comprehensive approach with several objectives—this was announced in August 2000: with tough and clear standards and requirements to improve and protect the quality of drinking water, effective inspection and enforcement to put a stop to activities that threaten water quality, tough penalties for non-compliance, and the fourth major objective is strategic investments in efficient, innovative delivery practices to ease potential burdens associated with complying with the necessary requirements.

We are on a road here. This is one or two steps along the way. There has been mention of Premier Eves's expressed interest in Ms Churley's work in this area.

The Chair: Further debate? Seeing none, I'll put the question.

Ms Churley: Recorded vote, please.

Ayes

Churley.

Nays

Barrett, Dunlop, McDonald, McMeekin, Miller, Peters.

The Chair: That amendment is lost.

Shall section 5 carry? Carried.

Any comments or amendments to section 6? Seeing none, shall section 6 carry? Carried.

On the new section 6.1, the first amendment is from the Liberal Party.

Mr Peters: I move that the bill, as amended by the standing committee on justice and social policy before second reading, be amended by adding the following section:

"Regulations must be made

"6.1 The Lieutenant Governor in Council shall make regulations,

"(a) providing for all of the matters mentioned in section 5 within one year of the day on which that section comes into force;

"(b) providing for all of the matters mentioned in section 6 within one year of the day on which that section comes into force."

A couple of things: I have great difficulties throughout this whole piece of legislation with the use of "may." I

think if we want this to be a tough piece of legislation and a good piece of legislation that's going to be in the best interests of the agricultural community and those living in the rural parts of the province in protecting our drinking water, we need it to be strong. The word "may" is not strong; the word "shall" is strong. If we want to hold true to the intent of this report, I think we should be including the word "shall."

I think too that it's important to have in this legislation some time frames, because this is all being left too open-ended. I know the NDP prior to Christmas did some work on this particular motion, but we've lost a lot of time with this whole piece of legislation. What I want to do is not see us lose more time. Let's put some definite time frames in as to when these regulations are going to be dealt with.

1650

The Chair: Further debate? Seeing none, I'll put the question.

Mr Peters: Recorded vote, please.

The Chair: Mr Peters has asked for a recorded vote on Liberal amendment number 8.

Ayes

Churley, McMeekin, Peters.

Nays

Dunlop, McDonald, Miller.

The Chair: That amendment is lost.

The next amendment is number 9. Again, along with the clerk, I must regretfully suggest that because the amendment proposes to add a number of products that have nothing to do with nutrients, namely pesticides and fuels, this amendment is out of order.

Ms Churley: If I could ask for unanimous consent to deal with this amendment because it deals with pesticides and fuels, materials recommended by Judge O'Connor to be included in this piece of legislation. I'd like to ask for unanimous consent to have it accepted and debated.

The Chair: Is there unanimous consent to allow this amendment to stand? I heard a no, so we will not.

Further debate? Seeing none, shall sections 7 through 40 carry? Sections 7 through 40 are carried.

A new section, 40.1, is a Liberal motion. Mr Peters.

Mr Peters: I move that the bill, as amended by the standing committee on justice and social policy before second reading, be amended by adding the following section:

"Economic incentives

"40.1 In enforcing this act, the minister shall at all times consider the desirability of using economic incentives to encourage compliance."

I think this is a pivotal recommendation that has come out of Justice O'Connor's report. Recommendation 16: "The provincial government, through the Ministry of Agriculture, Food and Rural Affairs, in collaboration

with the Ministry of the Environment, should establish a system of cost-share incentives for water protection projects on farms.”

We know this has the potential to have a severe impact on the agricultural community. I think it's incumbent on the government to come to the table and make it clear, enshrine it in the legislation and not just talk about it and say they're going to do something. Let's enshrine it in the legislation and honour the commitment Mr O'Connor made in recommendation 16. Let's have it enshrined in the legislation. If the government would have the courage to send the message to the agricultural community right now that they are prepared to come to the table with money to support the capital improvements that we know are going to be required—let's enshrine it right in the legislation and not just leave it open for future speculation. Again, it's another one of Justice O'Connor's recommendations.

The Chair: Further debate?

Mr McMeekin: On a good day, isn't that what this government says it's all about, linking incentives to compliance? Just talking political philosophy, isn't that what you guys espouse every single day?

Ms Churley: I think this is a key recommendation we should all support. There are some controversial areas, no doubt, around this bill, and we'll be speaking to one a little later; the other one is around who's in charge. We know those are controversial. This is one that isn't controversial, except perhaps with the government because it talks about resources. All of the people from all walks and on both sides of some of the issues did recommend very strongly that there be resources made available. Time and time again the farm groups, from big to small, talked about the need for some resources to make sure this bill and the ensuing regulations are actually put in place. We all know—and one of the reasons why I argue—that some of the regulations that are to come with no time frame attached aren't worth the paper they're written on if the resources aren't there to make them happen. I'm going to give you an example.

The government did not bring in a safe drinking water act in response to Walkerton, but did bring in tougher regulations, and already, because there is no dedicated safe drinking water fund, sewer and water upgrade fund—for the first time in many years under this government the dedicated fund to water is gone. Now municipalities have to apply either through SuperBuild or OSTAR. The municipalities have to compete with each other. Also it includes many other projects, from new rec centres to roads, and on and on. So there is no dedicated fund for those.

What has happened is that since the new regulations were brought in for sewer and water upgrades and clean water regulations, the resources aren't there for municipalities. And what has the government done? Instead of making these resources available in some of those municipalities, they've extended the deadline. Because they are just regulations, they put in a time frame, but then certain municipalities couldn't adhere to those dead-

lines and they extended them. That's what you can do with regulations.

I'm making two points here: there should be a time frame on the regulations—that amendment just failed—and the bill itself should be tougher so that it is written into law, and that's not being done. Failing that, at the very least, we should be assured within the legislative framework that there is funding so that the same thing doesn't happen. When regulations are brought in, we don't know how weak or strong they're going to be, because this is an enabling bill, but we do know that the farmers are going to require some assistance. That is an absolute given. Otherwise what's going to happen is that a lot of the regulations will be ignored or timelines will be extended or whatever.

This would give a great deal of comfort to those who want to protect the environment, and that includes of course the farmers and those who in rural areas and across our province want to make sure that our drinking water is safe. So I would strongly urge the government to support this amendment.

Mr Barrett: The government may look at financial incentives after the bill is approved. It's felt that there need not be a clause in the legislation saying that. This is not a budget bill. In my understanding, it's unusual to have a clause in a bill saying that in this case money would be available to farmers. The government is committed to studying the economic impact of any potential regulation under this bill and, very clearly, we are looking at an increase in rules and regulations and red tape.

We know full well from the hearings we have attended over that time, the presentations, that compelling arguments were made—I think of the Haldimand cattlemen's association, for example—at the hearings that were held in Caledonia by the standing committee on justice and social policy. No, the Haldimand Federation of Agriculture made an argument that came from the Haldimand cattlemen's association requesting money. That resolution had previously been adopted by the Ontario Cattlemen's Association. Again, many of these smaller cow-calf operations have 100-year-old barns, like on my farm, and there were compelling arguments made for assistance. However, it was felt that a clause need not be put in legislation indicating that money would be forthcoming.

I think we all realize that the government is investing in agriculture. I think of the healthy futures program. That's a \$30-million program; money invested in rural water quality projects alone, everything from wellhead protection and plugging abandoned wells. This is underway now. I know it's underway in Norfolk county, for example. Money is available for restricting livestock access to streams and creeks, for adopting nutrient management plans. I just give a few examples.

I think the point is it was not felt to be necessary to write this into the actual legislation.

1700

The Chair: I'm sure the member would want me to note that the Red Tape Commission considers regulations governing health, safety and the environment not to be red tape. That's good government.

Ms Churley: Is the Chair boasting?

Mr Peters: This is probably one of the most important pieces of legislation that is going to have an impact on the agricultural community and on rural Ontario. It's a piece of legislation where we have yet to see the government support any of the recommendations that Mr O'Connor has put forward. We've brought forth a number of amendments and the NDP has as well.

Why not send a clear message to the agricultural community in Ontario that we're not going to pass a piece of legislation without making that financial commitment to them? Let's enshrine it right in the legislation. Send that message—it's a great opportunity for every one of us—to the agricultural community and to those living in rural Ontario that we're going to be there to support them. Recommendation 16 of Justice O'Connor talks about it, and this government is not prepared to include recommendation 16, one of the most pivotal recommendations. I would strongly encourage the government to support this and send that message to the agricultural community that you as individuals are going to go to bat and fight for them to ensure that there are economic incentives available.

The Chair: Ms Churley?

Ms Churley: Thank you, Mr Chair. I know you're neutral, but I must admit that you did provoke me into responding to a comment about the red tape. Was Steve Gilchrist being provocative?

I did want to make a comment on two things in response, to clarify for the committee what the government sees as red tape. I want to remind the committee that when the Red Tape Commission was brought into being, the Ministry of the Environment was the ministry that was picked on the most. That ministry had more regulations pulled out than any other ministry across the province.

I want to further remind the committee that during the Walkerton inquiry it came to our attention that there was direct interference by a former government member and some ministers vis-à-vis some environmental matters through the Red Tape Commission, and we all remember that.

I hope the Chair meant by his comments that they've changed their tune on what they view as red tape and now consider environmental health not to be a needless piece of red tape but serious legislation. It must be killing the Chair not to be able to enter this debate now.

The Chair: Constrained by the rules governing the operation of committees.

Ms Churley: The second thing: I want to speak directly to the response from Mr Barrett on this amendment. He mentioned a program in existence. He said there is some funding for farmers to keep nutrients from going into nearby waterways and creeks. I'm wondering what program that is. I know the NDP had something called CURB, a multi-million dollar program, to give direct grants to farmers, particularly small ones, to fence in or do the other necessary work to keep cattle from getting close to waterways. I know that you cancelled

that program. I wasn't aware of another program to replace that.

The Chair: Mr Barrett?

Mr Barrett: I'll go before Mr McDonald, if that's OK, just to answer that. It's called healthy futures, and \$30 million of this program—this is just part of the program—has been directed toward rural water quality primarily on farms and for rural residents. In fact, 34 of the 95 projects approved so far under healthy futures—the full title is healthy futures for Ontario agriculture—relate to improving rural water quality.

What I want to stress is that it's not a total government grant. It's a cost-sharing approach to funding. I'm not familiar with the way the NDP did it, but this is a cost-sharing approach where there has to be an investment on the part of the farmer or the farm family within organizations. Total investment therefore now sits at about \$58 million. I mentioned some of the projects, many of them directed toward best management practices on farmland: activities such as, obviously, assistance adopting nutrient management plans, protecting wellheads, plugging abandoned wells and restricting livestock to creeks and ponds.

I will mention, too, that beyond healthy futures and beyond strictly some of these projects, the Ministry of Agriculture has invested more than \$2.35 million in research projects related to improving water quality in Ontario: environmental management, best management practices again, manure management, nitrogen use efficiency, waste application and water-taking priorities, and the issue of the quantity of water for water-taking, which is governed by a permit-to-take-water system, is important because as the volume of water is reduced, maybe in the summertime or through irrigation, any nutrients or any other pollution, for example, is more concentrated.

Mr McMeekin: I recall somebody defining a farmer as one who has more things to fix and less to fix them with than anybody. I think there are many cases where that's true. I'm pleased to hear the member opposite from Haldimand-Norfolk indicate his understanding and presumably the government's understanding of the economic impact. I hear my colleague Mr Peters talking about sending a clear message. In the context of the member opposite, having heard the compelling arguments for financial incentives, partnerships, what have you, I think it would make some sense to see this reflected in the legislation, notwithstanding recommendation 16.

I want to talk politically for a second. With everything that's going on and all the acknowledgement that the status quo really hasn't cut the cheese in the last little while, in the absence of some meaningful, significant buying into partnership ideally in the act, farmers are really being lifted up as the scapegoats for Walkerton. At the federation of agriculture that I get out to, Hamilton-Wentworth—we're out to every one of the meetings, which often go on into the wee hours of the morning—the kind of thing I'm hearing from my farm folk is that they're sick and tired of being blamed for things they don't have a lot of control over. If we're going to be

blamed, if there's going to be a set of rules put in place that they're going to have to kowtow to, in response the government, as the architect of those rules, really has to come to the table with some practical assistance. Otherwise farmers are nothing more than scapegoats, and my farmers ought not to be made scapegoats.

Mr McDonald: With all due respect, I've heard Mr Peters twice make reference to the government or, looking our way, state that we didn't support the O'Connor recommendations. I want to be very clear that I do support Mr O'Connor's recommendations. Secondly, we're voting on amendments to the bill that are being put forward. When I'm making that conscious decision in my voting, it has nothing to do with not accepting Mr O'Connor's recommendations; it's not accepting the wording of the motion. I want to be very clear in my message that of the comments that are being thrown in this direction, be very careful. We are voting on this amendment. It has nothing to do—

Interjection.

Mr McDonald: In your opinion, Mr Peters, it does. Maybe in my opinion I don't like your wording.

Interjection.

Mr McDonald: That's not what you put in here, Mr Peters.

The Chair: Order, gentlemen. Ms Churley.

Ms Churley: I would just like to point out that the government could have put forward its own amendments in its own words if they truly do accept these recommendations as promised. You had that opportunity, as did we, in a very short period of time. We did work—I know both parties—

Mr Peters: We had extra time.

Ms Churley: That's true. We had a little extra time in negotiations, but we worked as hard as we could, as quickly as we could, to get these amendments in. I would have been very happy to have seen some amendments from the government to reflect those recommendations. The problem is, these are the only amendments we have to work with. You guys have the full force of the bureaucracy to work with you—the minister's office, the parliamentary assistant's office—and there's nothing produced from the government side to reflect these recommendations.

1710

To slam the wording of these amendments—I know you were speaking specifically that time to the Liberals, but I find it offensive as well, given that the government did not put forward one amendment and will not accept one from the opposition.

I had something else to say, but I've now forgotten what it is.

The Chair: Seeing that—

Mr Peters: Recorded vote, please.

Ayes

Churley, McMeekin, Peters.

Nays

Barrett, Dunlop, McDonald, Miller.

The Chair: The amendment fails.

Any amendments or comments to sections 41 to 54? Seeing none, shall sections 41 to 54 carry? Sections 41 to 54 are carried.

That will then take us to section 55 where you'll find an NDP motion marked number 11 in your packet.

Ms Churley: I move that section 55 of the bill, as amended by the standing committee on justice and social policy before second reading, be struck out and the following substituted:

"Responsibilities of minister

"55(1) The Minister of Environment and Energy is responsible for:

"(a) the establishment, maintenance and operation of a registry described in clause 5(2)(n);

"(b) the review of any nutrient management plans or nutrient management strategies; and

"(c) supervising the issuing, amending, suspending or revoking of certificates, licences and approvals.

"No delegation

"(2) The minister responsible for the administration of any provision of this act may not delegate his or her powers under this Act to any person who is not an employee of the ministry over which the minister presides."

Bill 81, as it now stands, currently allows the Minister of Agriculture to privatize all aspects of approval, monitoring and enforcement of nutrient management plans, and that's in section 55. We saw what happened with privatized monitoring of water quality testing in Walkerton. Judge O'Connor is not clear one way or the other on the whole issue of privatization. I think he tries to skirt, to some extent, that issue, but he does point out the disaster privatization of water caused in the United Kingdom. That's why the NDP thinks it's important to make it very clear that that section be removed and state that the MOE is responsible for all aspects—that it should not be privatized—of approval, monitoring and enforcement of nutrient management plans with no powers to delegate these responsibilities to anyone who's not an employee of the ministry.

Mr Peters: I support the intent of the amendment and where the honourable member's going because in a previous motion that the government turned down we too are very concerned about alternative service providers. We want to ensure this is good legislation. We want to ensure that everybody has confidence in this and that the public has confidence in public servants. Confidence starts to wane when authority is delegated to others.

My difficulty with this is under the question of delegation. In the previous amendment we put forward, we agreed that the Ministry of Environment and Energy should be the lead ministry, but there is a role for the Ministry of Ag and Food and a role for conservation authorities. Where I can't support this legislation is that this talks specifically about the Ministry of Environment

and Energy, and I think it's important for OMAF and the conservation authorities to have that ability to have responsibility for the administration and the delivery of this act.

Mr Barrett: I think that the concern we have with this NDP motion is that, as indicated, it would replace that section of the act that allows for alternative service delivery and limit it only to the Ministry of Environment and Energy to be able to do specified functions. We feel that restricts flexibility.

One thing I want to make very clear, however, is that enforcement will always be a provincial responsibility. Enforcement will always lie within the purview of the province. In fact, section 55 of the act specifically prohibits alternative delivery of inspections, orders, remedial work and enforcement provisions. However, there are some provisions which, through this legislation, will be accomplished through an alternative service delivery mechanism; training and certification, for example. Training and certification of people who are involved in applying nutrients will be conducted through an alternative service delivery mechanism.

Another alternative service delivery activity is the establishment of a registry, and you made mention of the registry, to track land application of nutrients or nutrient-rich materials. Initially, the review and the approval of NMPs, the nutrient management plans, will be conducted by the Ministry of Environment and Energy for the large operations, with the Ministry of Agriculture and Food reviewing nutrient management plans for small and medium-sized livestock operations. However, down the road, once this process is up and running, these functions will also be delivered through an alternative service delivery mechanism.

The Chair: Further debate? Seeing none, I'll put the question.

Ms Churley: Recorded vote.

Ayes

Churley.

Nays

Barrett, Dunlop, McDonald, McMeekin, Peters.

The Chair: That amendment is lost.

Shall section 55 carry? Carried.

Any comments or amendments to sections 56 and 57?

Hearing none, shall sections 56 and 57 carry? Carried.

Section 58, you have Liberal motion number 12 in your packet. Mr Peters.

Mr Peters: I move that section 58 of the bill, as amended by the standing committee on justice and social policy before second reading, be amended by adding the following clause:

"(b.1) providing that this act and the regulations, or any provision of this act or the regulations, apply to the operation of golf courses;"

I think we've had a great deal of discussion over golf courses. Certainly there's a difference of opinion between the opposition and the government, because we feel that golf courses, as spreaders of nutrients, should fall under this act.

The Chair: Further debate? Seeing none—

Mr Peters: Recorded vote, please.

Ayes

Churley, McMeekin, Peters.

Nays

Barrett, Dunlop, Miller, McDonald.

The Chair: That amendment is lost. Shall section 58 carry? Carried.

Section 59: are there any amendments or comments? Seeing none, shall section 59 carry? It is carried.

Section 60 will take us to amendment 13, an NDP motion. Ms Churley.

Ms Churley: I move that section 60 of the bill, as amended by the standing committee on justice and social policy before second reading, be amended by adding the following subsection:

"Where bylaw standards superior

"(3) Despite subsections (1) and (2), a regulation does not supersede or render inoperative a bylaw or a provision of the bylaw that provides higher standards for the protection of the public or the environment than the regulation does, or prevent a municipality from making and enforcing a bylaw that imposes higher standards."

I would like to speak to this recommendation. I'm already contemplating what people across the floor will say about this one, so I will speak to it directly.

1720

Currently section 60 says that the regulations created under this legislation supersede any stronger existing bylaws. I acknowledge that Justice O'Connor has stated he feels that once the regulations are in place and a farm has in place a ministry-approved—and I note "ministry"—individual water protection plan, the municipality should not have the authority to require that farm to meet a higher standard of practice.

That's quite true. That's what he says. He expresses a concern that farmers will feel that they are being attacked by legislation from all sides. I want to acknowledge that, especially since Walkerton, farmers are feeling they are, in some cases, the scapegoat for some of what happened there. I think Justice O'Connor makes it very clear that they are not the scapegoats and points a finger, I think, mostly at both the provincial government and the local employees. He goes out of his way to deal with that concern.

However, what I want to say, and I think this is important to recognize, is that in the report he says that when it comes to source protection plans, they should be developed as much as possible at the local watershed

level by those who are most directly affected, and that's municipalities and other affected groups. That is not part of the nutrient management plan and it should be, because as the government said, they would be working on these source protection plans, obviously, because that's a key recommendation. Along with a Safe Drinking Water Act, that's one of the key recommendations Justice O'Connor makes. That is not included in the nutrient management plans. We have to face the fact that each local watershed does face its own unique ecological and geological issues. Therefore, one-size-fits-all does not work.

The other thing I want to point out, and I did when I made this similar amendment before, is that there could be court cases around this. We heard from AMO, the Association of Municipalities of Ontario, and they expressed grave concern about having this ability within their own planning act. The ability to have any say or decision-making in their own municipalities is a major problem.

I recognize it is a controversial one. I recognize that many groups made the argument that, once the standards are in place, municipalities should not be able to change them. But there is a Supreme Court precedent now in favour of municipalities' ability to pass stronger bylaws. That's the Hudson, Quebec, case where the judge ruled in favour of a bylaw that superseded federal and provincial laws to protect the health and well-being of its citizens. That was around a pesticide law. The municipality was challenged by lawn care companies—you may remember this—not the province. It was lawn care companies that challenged it. But there is certainly a precedent now by the Supreme Court that very clearly says municipalities should have these rights.

So amendment to section 60 stops this legislation from superseding stronger municipal bylaws and allows municipalities to develop bylaws with higher standards. I think this is a very important one. We don't know yet what the regulations are going to be. We don't know how weak or strong those regulations are going to be. The watershed plans have not happened. I mentioned this when Minister Johns was here the other day. She is well aware of the problems in her own area. We've all been hearing from people in Huron county. People have been working incredibly hard to have a say in what goes on in their own communities, and Huron county is a prime example.

The residents of the municipality that was then known as Ashfield successfully fought to get an interim control bylaw to regulate the spreading of manure in June 2000. That bylaw was challenged, but the court upheld it. The surrounding municipalities within Huron county were facing similar issues, particularly around what are known as intensive farming operations, not only existing ones but proposals for new ones. So that county took on a comprehensive study and they struck a committee that developed a county model bylaw that they encouraged all of the municipalities within Huron county to implement. Then, an amalgamated Ashfield-Colborne implemented a strengthened version of that model bylaw.

The concern from people who spent a lot of time working with their municipalities and their communities to come up with these bylaws to have a say in and protect their own jurisdictions, their own health and the environment, is that Bill 81—and we don't know how strong or weak the regulations are going to be. We're passing this bill now without the benefit of having those regulations in front of us, without the benefit of having watershed plans in front of us, but we're giving a blanket statement that no matter how weak or strong those regulations will be, the municipalities will not be able to use bylaws to have any say or control over what happens in their own jurisdictions.

I come back again to the fact that most of the work is yet to be done on the regulations. We don't know how strong they're going to be. I would turn around the government's arguments against the other amendments put forward by both opposition parties today and say that because we don't have the regulations yet, this is premature until we know about the watershed plans and until we know about the regulations and how strong they're going to be. To take this ability away from municipalities, particularly in light of the opposition to this by not only some residents but some of the smaller farm groups, as well as the Association of Municipalities of Ontario—I just think it's a mistake to do it in a bill that's mostly going to be made up of regulations.

I, for one, would not have a problem in accepting the bill as it is now written if I knew how strong those regulations would be and what kind of flexibility would be given to communities in their own jurisdictions to be able to have input into those regulations, how weak or strong they're going to be. Because at the end of the day this is about protecting our health and our water sources, as well as giving farmers the tools they need. I acknowledge that farmers, as well as anybody else, perhaps more so, want to protect the environment and our health. They live in these areas and drink the water from their jurisdictions. But we can't hide from the fact that although this is very controversial, there are two sides to the issue and there are precedent court cases that have ruled in favour of municipalities, plus a recent OMB case.

Mr Peters: On the conversion.

Ms Churley: Yes, on the conversion. So I think we're foolhardy. I must acknowledge as well, though, that I know it's very controversial. I understand the concern about it, and I also know that in this one Judge O'Connor did recommend something different. But he did recommend it, in my reading of it, on the basis of very strong watershed plans put in place, including an amendment of mine which was voted down relating to watershed plans and nutrient management plans being devised and put in front of the ministry so there could be clarification of how strong those plans are going to be. If this wasn't to be dealt with later in regulation and I had some idea where we're going to end up here, how strong the plans are going to be and whether there's going to be some flexibility for municipalities that have highly sensitive areas, tourist areas, watershed issues that can be taken

into account—but we have no assurances of that in this bill.

Therefore, because the assurances Judge O'Connor has asked for in his other recommendations—already today amendments from both the NDP and the Liberals which would have gone a long way to providing me with that comfort that the bill would be strengthened, given the fact that those regulations were not passed. I may have been in a position to withdraw this particular one had some of those other amendments been passed, but since they weren't, I think this amendment is critical at this time.

1730

Mr Barrett: Very clearly, the intent of section 60 is for the regulations to supersede any municipal bylaws that are currently in place when the bill is passed or any new ones to be developed later. The section would also deal with any municipal bylaws, whether it's under the Municipal Act, the Planning Act or any other authority that allows for the passing of bylaws. This motion very clearly would allow municipalities to be more restrictive in their bylaws than provincial regulations. One concern that came out in the hearings, by and large from the agricultural community, was the hodgepodge or the patchwork of municipal bylaws governing the application of nutrients that has grown like Topsy over the years. To delete this clause would allow for the current system to continue.

I certainly recognize the need for flexibility. I think I said in the hearings last week that this all about water. Water does not follow municipal boundaries. Here again, legislation and standards set up provincially—we should not automatically assume that the rule is the same across the province. One way to accomplish that—and this came out in the very first round of hearings that I was involved in with Doug Galt in the year 2000. The idea that came forward and seemed to be accepted by people when we questioned delegations was the concept of local advisory committees: farmers, environmentalists, people who know the lay of the land, who work the land, who perhaps hunt, fish, hike, course, trap or whatever and know where the streams flow. They may know a little bit about underlying aquifers, although that requires hard science to understand where an aquifer flows, let alone in many ways the impact of watersheds and surface water.

The legislation will create or allow for the creation of local advisory committees to promote awareness of the new rules and to mediate local nutrient management non-compliance-related issues. Clearly, these are advisory committees and part of their function is mediation, perhaps with the development of this forum, as we replace much of the influence of municipal bylaws.

Mr McMeekin: I have nothing but respect for Ms Churley, and I say that sincerely. I think you do just some incredible work. That having been said, this is a really tricky issue.

Ms Churley: Which I acknowledge.

Mr McMeekin: We've got a couple of former mayors here and a reeve, I think, from rural communities who understand the two-sidedness of this argument.

As I hear talk about local advisory committees, I'd feel a lot more comfortable with this if it hadn't been so damned hard to get the new city of Hamilton to acknowledge the need to put an agricultural advisory committee in place. We used to have those naturally before we were amalgamated. They were called local councils in Ancaster and Flamboro, and we had good rural representation there.

As the mayor of the only municipality in all of Ontario that actually lowered taxes six years in a row without cutting services, our reward was to be amalgamated in a monopoly form of government that isn't always as sensitive to rural issues as we'd like to see. In fact, one can make a very good argument that rural values, history and traditions are significantly underrepresented in today's reality. I hear that at every farm meeting I go to, and that's quite aside from the political stuff. I hear the rural voices being lost and certainly not heard as often.

The Hudson case is somewhat ambiguous too. As I understand it, as one who's quite anxious about pesticides and involved in doing some of the research on that issue, the thing that distinguishes the Hudson case—and I'm not sure; maybe everybody here knows this—is that the decision that the municipality had the right to do something stronger was made in the context of there not being provincial legislation in place.

If I can draw the parallel to Ontario, albeit an Ontario that needs to revisit its Pesticides Act, there is at least a Pesticides Act in place, whereas in Quebec that wasn't the case. The provincial government wasn't able to make as strong a case there because they were held up as being somewhat unqualified to do that, not having taken any action themselves.

The other concern I have—and I'll be very frank, Mr Chairman. If this was the town of Flamboro's regulations or the town of Ancaster's regulations that were coming into play here, I wouldn't have anywhere near as much difficulty, but we've got a mindset sometimes in large areas, as I said earlier, that doesn't see the wisdom of having even a local agricultural advisory committee put in place; of being quite fearful about putting in place a situation where the patchwork quilt gets reinforced, where we invite additional court challenges, which I think have been alluded to, that are often unsavoury and very expensive and, frankly, aren't in my opinion inclined to provide the kind of belief system that the bylaws would really be put in place to protect farmers.

The real worry in my agricultural community is that any time the government gets involved in telling them what they're going to do, the only thing they know for sure is they're going to get screwed or they fear they're going to get screwed. It's an issue of trust. They trust large, urban-based municipal governments almost as little as they trust the provincial government. There's no patchwork quilt in the distrust of government. There seems to be a universal distrust of government and, in this case, with good reason.

Notwithstanding that, I tried to listen very carefully to the arguments. I think the spirit is there, but I don't want

to see this put in place, because I really fear for the farm folk who are out there trying to earn an honest-to-goodness living. They've got all kinds of regulations, and the last thing in the world they need is a different set in Brantford than in Hamilton. To whatever extent it's helpful, with the generic application of a set of regulations, we may have to revisit it if the regulations are, as I worry, perhaps inadequate, but at this point in time I think it's too dangerous to go there.

Ms Churley: I am listening very closely to the arguments on both sides of this—your arguments and arguments the government made around this as well—and I have recognized all along how controversial it is, but I came down on the side of putting forward this amendment because we don't know what's going to be in the regulations, and that's what alarms me.

I want to give not quite an analogy, I suppose, but an example of how things can go wrong when you take away the ability of a municipality to set rules. What we need here is a green planning act or a watershed planning act, which we used to have. The NDP, as you know, brought in what we called a green planning act, and one of the first things this government did was to get rid of that act. In fact, the act they brought back was even more regressive than the one that was in place before.

1740

One of the things that happened is—and these are just a few little words but they were significant. Under the green planning act, as I referred to it, it said that municipalities' plans for development had to be consistent with the government policy statement. The Tory government changed that to just "have regard for" the Ontario regulations and policy statements on development. As a result, we saw what happened with the Oak Ridges moraine, for instance, with millions of dollars spent before the OMB, court cases, years of citizen activism, and eventually the government did come forward. It took a tremendous amount of pressure and money, and the OMB, which is very one-sided, wasn't really listening to the people. Finally, the government brought in an act after all this pressure.

But it's happening in other locations around the province now where development of another kind—not large intensive farms but, as we all know, Oakville is the most recent example. Mike Colle brought forward a private member's bill on that the other day. Councils don't have to "be consistent with" any more, they just have to "have regard for." They can pick it up, look at it and say, "Yes, we have regard for that," and then put it aside.

I just wanted to give an example of why I'm so concerned about that. Again, we don't know what those regulations are going to say and what kind of ability the municipality has in a situation where there's clear evidence that there's a watershed problem, an environmental problem or whatever. We don't know. It's an empty slate at this point, and it frightens me that we don't have that before us to know what we're talking about.

Having said that, I certainly hear the other side of the argument and I'm quite sympathetic to it, but I'm also very concerned and will be supporting my own amend-

ment under those circumstances, not knowing what is going to be in the regulations.

Mr Barrett: I just want to point out that I think we all understand that municipalities will continue to have responsibility for land use planning and building code legislation. They will have clarification from the province at that point and they will have province-wide legislation that ensures province-wide standards for environmental protection and clean, safe water through this legislation.

Mr Peters: We won't be supporting this amendment that's in front of us. I guess we'll hear that there is a recommendation that's going to be supported by the government out of the Walkerton report at least, with what we're going to have in front of us today, because the legislation mirrors recommendation 14. I've got to say, if there were things you were supportive of here, why didn't you bring forth some amendments; either amend what we had in front of us or bring forth your own amendments to the legislation? We didn't see that from this government. The only thing the government is going to be able to stand up and say—and I don't know how they're going to spin it and twist it—is, "Yes, we supported one recommendation—14."

I agree with 14 in this. I'm still waiting for the day when the Minister of Agriculture responds to how they're going to deal with the municipality of West Perth. West Perth has gone to the OMB and to the provincial court, and it has said that a municipal bylaw stands up. It's going to be very interesting to see how this government is going to respond to West Perth—because you've yet to respond; you've been silent on it—and how the West Perth and Hudson decisions are going to fit into this.

There's no doubt in my mind that we need to have this province-wide standard and not a hodgepodge of municipal bylaws. But it is extremely disappointing that the government chose not to put forth any amendments to try and make this a better bill and make this bill really do what it's intended to do, and that is, protect the farmers, the groundwater, the source water and the drinking water in this province.

The Chair: Ms Churley has moved motion number 13.

Ms Churley: Recorded vote.

Ayes

Churley.

Nays

Barrett, Dunlop, McDonald, McMeekin, Miller, Peters.

The Chair: That amendment is lost.
Shall section 60 carry? Carried.

Any comments or amendments to sections 61 to 67? Hearing none, shall sections 61 to 67 carry? They are carried.

Shall the title of the bill carry? Carried.

Shall Bill 81 carry? Carried.

Shall I report the bill to the House? Agreed. Thank you very much and I will do that.

Mr Dunlop: May I make a comment, Mr Chair, on the overall bill?

The Chair: If it's a brief one.

Mr Dunlop: I want to take this opportunity, at least on behalf of my government colleagues, to thank the member from Haldimand-Norfolk, Mr Barrett, for his hard work on this bill. It goes back the last few years. In fact, in the year 2000, Mr Barrett and Mr Galt toured the province and did some major work on intensive agriculture operations in the province in front of many crowds. Those recommendations and his reporting to caucus, along with the fact that he sat on the Premier's task force on rural Ontario, helped contribute a lot to the \$600 million that was put into the OSTAR program. In fact, the OSTAR program dealt with the Option One programs that many of the municipalities in our province are working with.

As well, as PA to the Minister of Agriculture in the year 2000, he worked along with the PA to the Minister of the Environment and helped develop the healthy futures program. I know in my municipality and in the county of Simcoe and in the regions around that area—

Mr Peters: Simcoe will hate this bill.

Mr Dunlop: You can mind your business for a second.

Mr Peters: What does the Simcoe FA think of this bill? They don't like it, do they?

Mr Dunlop: They've asked for the bill to be passed, if you don't mind, in its present form.

Mr Peters: Did you read the letter?

The Chair: Order.

Mr Dunlop: The fact that the healthy futures and OSTAR programs are in place is very important to our municipalities. The conservation authorities are taking part as the lead roles in the development of those programs. I know tomorrow we have a major announcement from the Lake Simcoe Region Conservation Authority on the healthy futures program. I think it's important that we

acknowledge Mr Barrett's contribution to the implementation of Bill 81, because he did steer it through the last couple of years on that. Thank you very much.

Mr Barrett: Could I have a rebuttal?

The Chair: I would thank Mr Barrett for coming and substituting today as well.

Mr Peters: I would like to pay a compliment to Mr Barrett as well. Toby, it's been a long time. We've been two and a half years at this. Mr Barrett has followed this bill from day one and he's here right to the end. As I said the last time, he was a trooper who made sure he was everywhere.

I just wanted to be on the record that the Simcoe Federation of Agriculture has some very serious concerns about this legislation that's in front of us. I asked the question at the last meeting if we had every piece of information in front of us. Obviously we didn't, because this letter went to Minister Helen Johns on May 28 and this is what the Simcoe County Federation of Agriculture said: "We strongly urge you to reconsider your support of Bill 81 in its present form. The problems with Bill 81 are detailed on the attached pages and rectifying these problem areas prior to the passage of Bill 81 is paramount."

What we tried to do today was rectify some of the issues that were not properly addressed in this bill, including some of the issues that we tried to raise today that were raised in a discussion paper by the Simcoe County Federation of Agriculture. I think it's important it be noted that there is a lot of concern in the agricultural community across this province about the direction and the intent of this legislation.

Interjection.

The Chair: I'm sorry, Mr Barrett. We've had enough time for commercials. I'm going to adjourn our proceedings today and note for the members, I think in deference, because we had agreed to one hour and 15 minutes of time for Bill 90, that we might as well pick a fixed starting time. I'll exercise my Chair's discretion and say we'll start at 4 o'clock sharp on Wednesday for consideration of clause-by-clause on Bill 90, for one hour and 15 minutes.

The committee adjourned at 1749.

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Wednesday 5 June 2002

Journal des débats (Hansard)

Mercredi 5 juin 2002

**Standing committee on
general government**

Waste Diversion Act, 2002

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LEGISLATIVE ASSEMBLY OF ONTARIO

STANDING COMMITTEE ON
GENERAL GOVERNMENT

Wednesday 5 June 2002

The committee met at 1606 in committee room 1.

WASTE DIVERSION ACT, 2002

LOI DE 2002 SUR
LE RÉACHEMINEMENT DES DÉCHETS

Consideration of Bill 90, An Act to promote the reduction, reuse and recycling of waste / Projet de loi 90, Loi visant à promouvoir la réduction, la réutilisation et le recyclage des déchets.

The Chair (Mr Steve Gilchrist): I call the standing committee on general government to order for the purpose of clause-by-clause consideration of Bill 90, An Act to promote the reduction, reuse and recycling of waste. Committee members will know we had scheduled a 4 o'clock start time. Notwithstanding the non-attendance of some members, we will proceed, given that the first motion is a government motion. I will ask Mr Dunlop.

Mr Garfield Dunlop (Simcoe North): I move that the definition of "minister" in subsection 1(1)—

The Chair: Forgive me, Mr Dunlop, my mistake. First, we have to approve section 0.1 of the existing act. Any comments or amendments to section 0.1? Seeing none, I'll put the question. Shall section 0.1 carry? Section 0.1 is carried.

Sorry, Mr Dunlop, back to you.

Mr Dunlop: I move that the definition of "minister" in subsection 1(1) of the bill, as amended by the standing committee on general government before second reading, be struck out and the following substituted:

"'Minister' means the Minister of Environment and Energy or such other member of the executive council as may be assigned the administration of this act under the Executive Council Act;

"'Ministry' means the ministry of the minister."

The Chair: Comment? Seeing none, all those in favour of the amendment? Opposed? It is carried.

Shall section 1, as amended, carry? It is carried.

Section 2, any comments or amendments? Seeing none, shall section 2 carry? This is where one of you responds.

Interjection: Carried.

The Chair: Carried. Thank you.

Section 3: in the interest of minimizing grief for all the committee members, I will ask for unanimous consent to stand down the NDP motions before us. We'll deal with

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the sections that have no amendments. Is it agreed? Agreed.

Seeing that, on sections 4 through 20, are there any comments or amendments? Seeing none, shall sections 4 through 20 carry? They are carried.

We will revert back to section 3, where we will find an NDP motion marked number 2 in your packet.

Ms Marilyn Churley (Toronto-Danforth): I move that paragraph 1 of subsection 3(2) of the bill, as amended by the standing committee on general government before second reading, be struck out and the following substituted:

"1. That number of members appointed by the Association of Municipalities of Ontario, that is one-half of the total number of members appointed under this subsection."

The Chair: Do you wish to speak to the motion?

Ms Churley: No. This is similar to an amendment I made before. I hope for the support of the committee so that there will be a fair balance on the committee.

The Chair: Any comments?

Mr Dunlop: Yes, we have a comment. We won't be supporting this motion. The committee heard directly from the Association of Municipalities of Ontario of its support for this bill, including the membership on the Waste Diversion Ontario board of directors. The bill recognizes the agreed-to number of positions with municipal stakeholders at four members. This membership resulted from extensive consultation by the ministry and the voluntary Waste Diversion Organization initiative, which was taken over a period of time. The board membership primarily reflects those directly affected by diversion programs, specifically those that will be paying fees, and AMO reiterated its clear support for this bill in its recent appearance before this committee.

The Chair: Any further comments? Seeing none, I'll put the question. All those in favour—

Ms Churley: Recorded, please.

The Chair: Ms Churley has asked for a recorded vote on her motion.

Ayes

Churley, Colle.

Nays

Arnott, Dunlop, McDonald, Miller.

The Chair: The amendment is lost.

Ms Churley, number 3 is yours.

Ms Churley: I move that subsection 3(2) of the bill, as amended by the standing committee on general government before second reading, be amended by adding the following paragraphs:

“11. One member appointed by the Ontario Environment Network.

“12. Two members appointed by the Ontario Environment Industry Association.”

This is again an amendment I feel very strongly that we need to make sure the environmental community is represented on this committee. The Ontario Environment Network is an umbrella organization representing environmental groups across the province. It has expertise in this area and would like to have a voice on the board, as well as the Ontario Environment Industry Association, in terms of balance and the concerns raised by these folks. I think again it would be a wise idea of the government to have these people on the board.

The Chair: Any comments? Seeing none, I'll put the question.

Ms Churley: Recorded, please.

The Chair: Ms Churley's asked for a recorded vote.

Ayes

Churley, Colle.

Nays

Arnott, Dunlop, McDonald, Miller.

The Chair: That amendment is lost.

Motion number 4, Ms Churley.

Ms Churley: I move that subsection 3(3) of the bill, as amended by the standing committee on general government before second reading, be amended by adding the following paragraph:

“5. One observer appointed by the Ontario Environment Network.”

Again, I think it's very important that the board—it's just been voted down. It will not have representation on the board, but there is opportunity for observer status. Again, this organization represents environmental organizations across the province, it has expertise and an interest in the subject and it's a real travesty if it is left off. This is a compromise and I hope people will support it.

The Chair: Further comment?

Mr Dunlop: The committee dealt with this issue in clause-by-clause review of the bill after first reading. The appointment of observers to the board has been the subject of a lot of discussion by the ministry through its consultation. The current observers identified in the bill are making financial contributions, such as the Ontario Community Newspaper Association, the Canadian Paint and Coatings Association and the Canadian Manufacturers of Chemical Specialties. While they have a signifi-

cant stake in the management of waste, such as the Ontario Waste Management Association and the Paper and Paperboard Packaging Environmental Council, this act allows for observers to change through the operating agreement between Waste Diversion Ontario and the minister; also, nothing in the bill prevents Waste Diversion Ontario from adding further participants to the board process in the future.

The Chair: Further comments? Seeing none, I'll put the question.

Ms Churley: A recorded vote.

Ayes

Churley, Colle.

Nays

Arnott, Dunlop, McDonald, Miller.

The Chair: That amendment is lost.

Shall section 3 carry? Section 3 is carried.

That will take us then to section 21 and the next motion which is number 5 in your packet, Ms Churley.

Ms Churley: I move that subsection 21(2) of the bill, as amended by the standing committee on general government before second reading, be amended by adding the following paragraph:

“4.1. Information, for each industry funding organization, on the impact in the previous year of the fees collected by the organization on the retail cost of products.”

The Chair: Do you wish to speak to the motion?

Ms Churley: No. I think the implications are very clear why I've put this amendment forward.

The Chair: Any further comment?

Mr Dunlop: Waste Diversion Ontario and each industry funding organization must report annually on their programs. As part of these reports, audited financial statements must be submitted that would include accounting of the fees received by the industry funding organization partners. The bill allows for the flexibility to consider the issue of retail price impacts on the development and the evaluation of any of the programs as well.

The Chair: Any further comments? I'll put the question.

Ms Churley: Recorded, please.

Ayes

Churley, Colle.

Nays

Arnott, Dunlop, McDonald, Miller.

The Chair: That amendment is lost.

Shall section 21 carry? Section 21 is carried.

Section 22: amendment number 6 in your packet.

Ms Churley: I move that section 22 of the bill, as amended by the standing committee on general government before second reading, be amended by adding the following subsection:

“Economic impact analysis

“(5) In developing the program, Waste Diversion Ontario and the industry funding organization shall undertake an economic impact analysis of the program and shall make that economic impact analysis available to the public in advance of the consultation required by subsection (4).”

This amendment was suggested by some of the stakeholders. In bringing on such a program, I think it's important that we have written into the bill that an economic impact analysis be done. I'm hoping for support from all members on this.

Mr Dunlop: The bill does offer flexibility to consider economic impacts in the development of any program.

The Chair: Further comment? Seeing none, I'll put the question.

Ms Churley: Recorded, please.

Ayes

Churley, Colle.

Nays

Arnott, Dunlop, McDonald, Miller.

The Chair: That amendment is lost.

Number 7: Ms Churley.

Ms Churley: I move that section 22 of the bill, as amended by the standing committee on general government before second reading, be amended by adding the following subsection:

“Environmental impact analysis

“(6) In developing the program, Waste Diversion Ontario and the industry funding organization shall undertake a comprehensive environmental impact analysis of the program, including a study of alternative approaches, and shall make that environmental impact analysis available to the public in advance of the consultation required by subsection (4).”

Mr Dunlop: The motion is very similar to a previous motion that would have required the economic impact analysis be developed for each program. The bill in its present form allows for flexibility to consider environmental impacts in the development of any program as well.

The Chair: I'll put the question. Recorded vote.

Ayes

Churley, Colle.

Nays

Arnott, Dunlop, McDonald, Miller.

The Chair: The amendment is lost. Shall section 22 carry? It is carried.

Ms Churley: Mr Chair, before we move on, I need to ask for the indulgence of the committee. I have to go and make a quick phone call. I couldn't find anybody to replace me. Could we have five minutes?

The Chair: Would you like me to deal with the sections that have no amendments?

Ms Churley: Yes, please.

The Chair: If we finish with that, then I promise we won't deal with any of the sections that—

Ms Churley: I will be very quick. I do apologize.

The Chair: All right. Then let's go to section 23. Are there any amendments or comments? Seeing none, I'll put the question. Shall section 23 carry? It is carried.

Mr Ted Arnott (Waterloo-Wellington): On a quick point of order, Mr Chair: I just want to thank you for being so accommodating.

The Chair: We aim to please, Mr Arnott, on this committee.

Sections 26 to 28: Are there any comments or amendments? Seeing none, shall sections 26 to 28 carry? They are carried.

Section 32: Any comments or amendments? Seeing none, shall section 32 carry? It is carried.

Section 33.1: Any comments or amendments? Seeing none, shall section 33.1 carry? It is carried.

Sections 34 to 42: Any comments or amendments? Seeing none, shall sections 34 to 42 carry? They are carried.

Sections 43 and 44: Any comments or amendments? Seeing none, shall sections 43 and 44 carry? They are carried.

Shall the title of the bill carry? It is carried.

With that, we'll declare a three-minute recess until Ms Churley has an opportunity to return.

The committee recessed from 1619 to 1626.

The Chair: I call the committee back to order. That will take us back to amendment number 8, a new section 22.1.

Ms Churley: Thank you, everybody, for your indulgence.

I move that the bill, as amended by the standing committee on general government before second reading, be amended by adding the following section:

“Municipal organic waste diversion program

“22.1(1) Every upper-tier and single-tier municipality shall develop, implement and operate a waste diversion program for organic waste.

“Same

“(2) One half of the total net capital and operating costs of a municipal waste diversion program for organic waste shall be paid for by the municipality and the other half shall be paid for by Waste Diversion Ontario.

“Same

“(3) The council of the municipality shall submit the program to the minister for his or her approval and subsections 25(2), (3) and (4) apply to the application for the minister's approval with necessary modifications.

“Definitions

“(4) In this section,

“‘single-tier municipality’ means a municipality other than an upper-tier municipality that does not form part of an upper-tier municipality for municipal purposes;

“‘upper-tier municipality’ means a municipality of which two or more municipalities form part for municipal purposes.”

Just briefly, I spoke before on a similar amendment. For the waste stream, very clearly the focus needs to be on the removal of organics, as is being done in Halifax, Edmonton and other jurisdictions around the world. Ontario used to be a leader in waste management issues and is no longer. We’ve fallen way behind. It has been proven that getting the organics out is the most important thing we can do. As you know, the biggest problem with landfill is the decomposing of the organics which causes the leachate and the other problems we see with landfill. We know there is a move to move us to incineration, which I don’t think is the way to go either.

The whole area of waste management I think we should be calling resource management, as other jurisdictions are starting to do, and trying to get as much of the so-called waste out of the waste stream and treated as resources. We need to have a special emphasis on organics and getting them out of the waste stream. We need to see this body more involved than it will be as the legislation before us gives them the authority to do. I think we would all agree, from the hearings we had previously, that this is the way to go. We need to put a much bigger effort into getting the organics out, and indeed a much bigger effort into reuse and refillable as well. This is a very important component of how we should be dealing with our resources and I hope there is support for this particular amendment. I can only try.

Mr Dunlop: The committee did deal with this after the first clause-by-clause review, after the first reading as well. The government considers progress on organic diversion to be a very important objective and a very important issue for municipalities. I know it certainly is in my municipalities.

Organic waste is one of the waste materials to be designated by regulation under this act. Once designated, the minister will request Waste Diversion Ontario to develop, implement and fund a program for this material. There are a number of options that need to be considered in developing and implementing an organics program and we believe that Waste Diversion Ontario is best suited to determine which organic diversion option will be considered and implemented.

With regard to funding, Waste Diversion Ontario is best suited to determine the costs covered under the program and those to be designated as stewards, and of course they all need the approval of the minister as well.

The Chair: Any other comments? Seeing none, I’ll put the question. A recorded vote.

Ayes

Churley, Colle.

Nays

Arnott, Dunlop, McDonald, Miller.

The Chair: That amendment is lost.

Ms Churley: You don’t like the wording, right? You like the concept.

The Chair: Section 24, amendment 9, Ms Churley.

Ms Churley: I’m having trouble with a section of my own amendment here, but let me read it.

I move that subsection 24(1) of the bill, as amended by the standing committee on general government before second reading, be amended by striking out the portion before paragraph 1 and substituting the following:

“Contents of waste diversion program

“(1) A waste diversion program developed under this act for a designated waste shall include the following:”—
And there is no “following.”

Mr Doug Beecroft: I can speak to that.

Ms Churley: Can you speak to this for me, please?

Mr Beecroft: If you look at section 24 of the bill as it appears, you’ll see it has four paragraphs. What your motion proposes is striking out those lines preceding those four paragraphs, deleting the four paragraphs there.

Ms Churley: I see. This does make sense then. Thank you very much for that clarification. So I stand by my amendment here.

The Chair: Any comment?

Mr Dunlop: I want to point out that there are a number of materials that the ministry has identified to be designated by regulation under this act. They are, first of all, blue box waste, household special waste, used oil, scrap tires, electronic waste, organic waste, pharmaceutical waste, fluorescent tubes and batteries. Flexibility is required as it is difficult to predict the specific program requirements for each of these materials. So we will not be supporting this amendment.

The Chair: Further comment? A recorded vote.

Ayes

Churley.

Nays

Arnott, Dunlop, McDonald, Miller.

The Chair: The amendment is lost.
Motion number 10, Ms Churley.

Ms Churley: I move that paragraph 1 of subsection 24(1) of the bill, as amended by the standing committee on general government before second reading, be struck out and the following substituted:

“1. Activities to reduce, reuse and recycle the designated waste, in that order of priority.”

I think this one speaks for itself. There’s no reason why the government would not support this one, we would all agree. Please, tell me.

Mr Dunlop: We have a problem with this one as well.

Ms Churley: What?

Mr Dunlop: The government understands the importance of the 3Rs. The focus of the proposed act is clearly identified in the title of the bill. To reinforce this, the bill was amended by adding a purpose statement which states, "The purpose of this act is to promote the reduction, reuse and recycling of waste and to provide for the development, implementation and operation of waste diversion programs."

In addition, this issue will be dealt with at the program level when Waste Diversion Ontario develops a program for designated material, and I mentioned the other materials earlier. Flexibility is required to choose the appropriate mix of solutions for any waste diversion program developed by Waste Diversion Ontario.

The Chair: Any other comments? A recorded vote.

Ayes

Churley, Colle.

Nays

Arnott, Dunlop, McDonald, Miller.

The Chair: That amendment is lost.
Number 11, Ms Churley.

Ms Churley: I move that section 24 of the bill, as amended by the standing committee on general government before second reading, be amended by adding the following subsection:

"Target waste diversion

"(1.1) A waste diversion program developed under this act for a designated waste shall provide for the reduction, reuse or recycling of at least 60% of the designated waste."

Again, we discussed this in the previous committee hearings and I think it's critical that that number be increased so we can move forward more quickly and more efficiently in achieving our targets.

Mr Dunlop: I just want to say that the ministry—

Ms Churley: —is supporting this one.

Mr Dunlop: As I indicated earlier, there are a number of materials the ministry has identified to be designated by regulation under this act, and I listed them a couple of motions ago. Flexibility is required and it is difficult to predict specific targets to be achieved for each of these materials, because some may be a lot more than 60%.

The act provides for the development of objectives as part of any waste diversion program. A proposed program must also address how the proposed targets will be measured. Specific targets, however, have not been set out in the legislation as it is expected that targets will vary from program to program. There are some materials where program targets will be well known—an example would be tires—and others where the target will be more difficult to set at the start of the program. In requiring a program to be developed for a designated waste, the minister may set the target or require that Waste Diver-

sion Ontario or the industry funding organization in Ontario set the target as part of the program proposal.

The Chair: Comments? Recorded vote.

Ayes

Churley, Colle.

Nays

Arnott, Dunlop, McDonald, Miller.

The Chair: That amendment is lost.
That takes us to amendment number 12.

Ms Churley: I move that subsection 24(2) of the bill, as amended by the standing committee on general government before second reading, be amended by striking out the portion before paragraph 1 and substituting the following:

"Same

"(2) A waste diversion program developed under this act for designated waste shall not include any of the following."

I understand this is the same situation as the other one.

The Chair: Any comments?

Mr Dunlop: The committee reinforced the intent of the act by adding a purpose statement, as I read out earlier, which is to promote reduction, reuse and recycling of waste. While not prohibiting the burning, land-filling or land application of materials that are diverted under a waste diversion program, the focus of this act is clearly waste reduction, reuse and recycling. There may, however, be instances where these other waste management options may need to form part of the proposal submitted to the minister, but they are not to be promoted as the sole purpose of the program.

The Chair: Comment? Recorded vote.

Ayes

Churley, Colle.

Nays

Arnott, Dunlop, McDonald, Miller.

The Chair: That amendment is lost.
Ms Curley, number 13.

Ms Churley: Well, you can't say I'm not trying.

I move that subsection 24(2) of the bill, as amended by the standing committee on general government before second reading, be amended by adding the following paragraph:

"3.1 The export of waste for recycling, except where the waste is exported to a recycling facility in the United States that was in operation and receiving material for recycling from Ontario before the day this act receives royal assent."

The Chair: Any comments? I suspect Mr Dunlop has some.

Mr Dunlop: Yes. The intent of this motion is really not clear. If there are opportunities for recycling that are not available in Ontario, why would any government or any organization not take advantage of them in any other jurisdiction? In any event, the following paragraph of the bill, section 24(2), paragraph 4, already allows the minister by regulation to add activities that are not to be promoted in a waste diversion program.

The Chair: Comments? Recorded vote.

Ayes

Churley, Colle.

Nays

Arnott, Dunlop, McDonald, Miller.

The Chair: The amendment is lost.
Number 14, Ms Churley.

Ms Churley: I move that subsection 24(5) of the bill, as amended by the standing committee on general government before second reading, be struck out and the following substituted:

"Blue box program threshold for payments to municipalities

"(5) A waste diversion program developed under this act for blue box waste shall provide for payments to municipalities that total at least 50% of the total net operating and capital costs incurred by the municipalities, on and after the day this act receives royal assent, in connection with the blue box waste."

This is to provide for adequate funding for municipalities. I understand municipalities do want this bill passed, they've made that clear—something is better than nothing; there has been nothing since 1995—but the funding, as proposed by the bill, is inadequate. This amendment would remedy that.

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Mr Dunlop: The committee amended this clause to reflect the 50% funding agreement for the blue box program, which was the subject of extensive consultation by the ministry. It also reflects the recommendations made on the issue by the voluntary waste diversion organization after extensive discussions between industry and municipalities.

The Chair: Further comments? Recorded vote.

Ayes

Churley, Colle.

Nays

Arnott, Dunlop, McDonald, Miller.

The Chair: That amendment is lost.
Number 15, Ms Churley.

Ms Churley: I move that section 24 of the bill, as amended by the standing committee on general government before second reading, be amended by adding the following subsections:

"Payments to municipalities for disposal of waste not covered by program

"(6) Subject to subsection (7), where a waste diversion program developed under this act does not provide for all of the designated waste to be reduced, reused or recycled, the industry funding organization that the program is developed in co-operation with shall provide funding to municipalities equal to 50 per cent of the total net operating costs incurred by the municipalities to dispose of the portion of the designated waste not reduced, reused or recycled under the program.

"Same

"(7) Where a waste diversion program developed under this act does not, in any year, result in the reduction, reuse or recycling of at least 60% of the designated waste, the industry funding organization that the program is developed in co-operation with shall provide funding to municipalities equal to 100% of the total net operating costs incurred by the municipalities to dispose of the portion of the designated waste not reduced, reused or recycled under the program that is the difference between 60% of the total amount of designated waste and the percentage of the total amount of the designated waste that was reduced, reused or recycled in that year."

The Chair: Any comments?

Mr Dunlop: The motion entails a completely new policy direction for this legislation. None of the consultations contemplated payments for disposal, as the intent of the initiative was to promote and fund waste diversion programs. There is no incentive in either of these sections for municipalities to maintain or enhance current diversion activities, as their disposal costs will be subsidized by the industry. Funding for landfilling could act as an incentive for municipalities to reduce their recycling.

The Chair: Comments? I'll put the question. A recorded vote.

Ayes

Churley, Colle.

Nays

Arnott, Dunlop, McDonald, Miller.

The Chair: That amendment is lost.

Shall section 24 carry? Section 24 is carried.

Section 25, NDP motion number 16, Ms Churley.

Ms Churley: I move that subsection 25(3) of the bill, as amended by the standing committee on general government before second reading, be struck out and the following substituted:

"Decision of minister

"(3) The minister shall decide in writing to approve the program, to not approve the program, to modify the

program and approve the modified program or to direct Waste Diversion Ontario to modify the program and to resubmit it for approval.”

This amendment is there because right now there's some concern that already under an existing act the minister has the authority to do everything that's in this bill, and more. The way the bill is worded now, some of that authority would be taken away and in fact there could be plans put forward that the minister should have more of a say in directing how the program unfolds. The concern here is that this bill, as written, will actually limit the power the minister already has and should continue to have.

The Chair: Further comment?

Mr Dunlop: Adding the authority could delay the development of a program. The minister could be in negotiations with Waste Diversion Ontario for the final program and thus delay program implementation. The ministry, as part of its role on the board of directors, will be involved in the process leading up to the submission of a program to the minister.

The Chair: Further comments? I'll put the question.
A recorded vote.

Ayes

Churley, Colle.

Nays

Arnott, Dunlop, McDonald, Miller.

The Chair: That amendment is lost.

Shall section 25 carry? It is carried.

Section 29, Mr Dunlop.

Mr Dunlop: I move that subparagraph 3 iii of subsection 29(3) of the bill, as amended by the standing committee on general government before second reading, be amended by striking out “the Ministry of the Environment” and substituting “the ministry.”

The Chair: I'm advised it should actually be subparagraph 1 iii.

Ms Churley: I was going to ask about that for clarification.

The Chair: I will accept that that was just a typo; if everyone can change their notes accordingly.

Mr Dunlop: Paragraph 1?

The Chair: Yes, subparagraph 1 iii. Any comment?

Ms Churley: Could I ask for clarification? It now says, “the Ministry of the Environment.” I was confused. Now I know why, because of the typo here. But why would you substitute “the ministry” instead of “the Ministry of the Environment”?

Mr Dunlop: We're making it flow with the other wording throughout the ministry. It may not always be the Ministry of the Environment, as well. It could be called the Ministry of Environment and Energy, or something like that.

Ms Churley: I see what you're saying. It's just that simple. I think I can support that.

The Chair: Any other comments?

Seeing none, all those in favour? Opposed? It's carried.

Shall section 29, as amended, carry? It is carried.

Section 30: Ms Churley, amendment number 18.

Ms Churley: I move that subsections 30(2) and (3) of the bill, as amended by the standing committee on general government before second reading, be struck out.

The Chair: Any comments? Seeing none, I'll put the question.

A recorded vote.

Ayes

Churley, Colle.

Nays

Arnott, Dunlop, McDonald, Miller.

The Chair: That amendment is lost.

Shall section 30 carry? It is carried.

Section 31: Mr Dunlop, amendment number 19.

Mr Dunlop: This is similar to the last one.

I move that paragraph 3 of subsection 31(2) of the bill, as amended by the standing committee on general government before second reading, be amended by striking out “the Ministry of the Environment” and substituting “the ministry.”

The Chair: Any comment? Seeing none, I'll put the question.

All those in favour? Opposed? It's carried.

Shall section 31, as amended, carry? It is carried.

Section 33: Ms Churley, number 20.

Ms Churley: I move that subsections 33(7), (8) and (9) of the bill, as amended by the standing committee on general government before second reading, be struck out.

The Chair: Seeing no comments, a recorded vote.

Ayes

Churley, Colle.

Nays

Arnott, Dunlop, McDonald, Miller.

The Chair: That is lost.

Shall section 33 carry? It is carried.

A new section, 33.2: Ms Churley, number 21.

Ms Churley: I move that the bill, as amended by the standing committee on general government before second reading, be amended by adding the following section before the heading “Enforcement”:

“Liquor Control Board of Ontario

“33.2 (1) A program developed under section 22 shall not provide for the diversion of blue box waste that is packaging associated with products listed for sale by the Liquor Control Board of Ontario.

“Participation, contribution not required

“(2) A program developed under section 22 shall not require the participation of or contribution by the Liquor Control Board of Ontario in respect of blue box waste

that is packaging associated with products listed for sale by the Liquor Control Board of Ontario.

“Returnable containers program

“(3) The Liquor Control Board of Ontario shall, not later than January 1, 2003, implement a program providing that containers for products listed for sale by the Liquor Control Board of Ontario can be returned to the point of sale for a returnable deposit.”

Very briefly, because I’m sure people understand what this is about, when Chris Stockwell, who is now the Minister of Environment and Energy, was running for the Tory leadership, he said very clearly—it’s on the record—that if he became leader, he would move the LCBO to a returnable, refillable system. He did not become the leader, but he did become the Minister of the Environment.

I think this committee has a golden opportunity here to support this amendment and to help him meet his laudable goal of finally having the LCBO bring in a program similar to the beer store system which, as we know, has been around since the 1930s. It’s crazy that in this day and age, we still don’t have such a system in place. Because the Minister of the Environment is on record supporting this initiative, I cannot believe his own members here today—the Minister of the Environment, perhaps a future leader, wants to bring in this program and we can endorse his goals today by supporting this amendment.

Seriously, I think we have to drag the Liquor Control Board of Ontario kicking and screaming into implementing such a program. I just hope you’ll support me on this one. You’d better have a very good reason that we can tell Chris Stockwell if you don’t support it.

1650

Mr Dunlop: We talked to Minister Stockwell about that.

Ms Churley: What did Mr Stockwell have to say?

Mr Dunlop: In its current form, the act does not preclude the development and implementation of a deposit-return system.

Ms Churley: What a cop-out. I want to say for the record to Mr Stockwell, what a cop-out. He had a perfect opportunity here to direct these committee members to support this.

Mr Dunlop: We’re not done with this, Marilyn.

Mr Norm Miller (Parry Sound-Muskoka): I want to say that in spirit I support Ms Churley.

Ms Churley: In spirit?

Mr Miller: In spirit. I’m very happy to see that the act does not preclude the development and implementation of a deposit-return system. We were all here last week when Usman Valiante from the brewers made an excellent presentation to us, mainly encouraging the LCBO to develop a deposit-return system. I feel it’s something we should be moving toward doing, and I hope we will look at that in the future as being the environmentally friendly solution that makes more sense, if it doesn’t cost too much to implement. I think it is the way for us to move in future and we’ll certainly work with Ms Churley toward trying to make it happen in the future.

The Chair: Any further comments? Seeing none, I’ll put the question on motion 21.

A recorded vote.

Ayes

Churley, Colle.

Nays

Arnott, Dunlop, McDonald.

The Chair: That amendment is lost, which then takes us to motion number 22 and a new section 42.1.

Ms Churley: I move that the bill, as amended by the standing committee on general government before second reading, be amended by adding the following section:

“Application of Environmental Protection Act

“42.1 Nothing in this act affects the powers and duties of the minister under the Environmental Protection Act.”

I spoke to this under another amendment previously, but let me reiterate that there is concern. It was expressed by Mr Gord Perks and others that the minister already has the powers to do this and more, and it’s really perverse because there is concern that this bill will actually take some of those powers away. We’re talking here about the ability of the bill to allow certain things to happen in the future, but also the flip side of that is that this bill, if passed in its present form, will limit or could limit the minister from taking certain measures if this body is opposed to it. Look at what’s happening in Hydro One—dare I talk about it now. When we create these kinds of bodies, we want to make sure that a minister, particularly one who wants to see the LCBO start a refillable regime—that those powers remain the same.

Mr Dunlop: The government feels there’s no need for this motion. The provisions of Bill 90 do not in any way reduce the powers available under the Environmental Protection Act.

Ms Churley: May I just say that in that case, just to be on the safe side, why don’t you just give me this one amendment? Let me win one here.

The Chair: With that plaintive cry, I’ll put the question.

A recorded vote.

Ayes

Churley, Colle.

Nays

Arnott, Dunlop, McDonald, Miller.

The Chair: That amendment is lost.

Shall Bill 90, as amended, carry? It is carried.

Shall I report the bill, as amended, to the House? Agreed.

Thank you very much. We met our timeline. I thank the members for their attendance. The committee stands adjourned till the call of the Chair.

The committee adjourned at 1655.

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STANDING COMMITTEE ON GENERAL GOVERNMENT

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Official Report of Debates (Hansard)

Tuesday 18 June 2002

Journal des débats (Hansard)

Mardi 18 juin 2002

Standing committee on general government

Reliable Energy and
Consumer Protection Act, 2002

Comité permanent des affaires gouvernementales

Loi de 2002 sur la fiabilité
de l'énergie et la protection
des consommateurs

Chair: Steve Gilchrist
Clerk: Anne Stokes

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LEGISLATIVE ASSEMBLY OF ONTARIO

ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

STANDING COMMITTEE ON
GENERAL GOVERNMENTCOMITÉ PERMANENT DES
AFFAIRES GOUVERNEMENTALES

Tuesday 18 June 2002

Mardi 18 juin 2002

The committee met at 1534 in room 151.

SUBCOMMITTEE REPORT

The Vice-Chair (Mr Norm Miller): I call the standing committee on general government to order to consider Bill 58, An Act to amend certain statutes in relation to the energy sector.

First of all, I believe there's a subcommittee report.

Mr Steve Gilchrist (Scarborough East): I move adoption of the subcommittee report, which reads as follows:

"Your subcommittee met on Tuesday, June 11, 2002, to consider the method of proceeding on Bill 58, An Act to amend certain statutes in relation to the energy sector, and recommends the following:

"(1) That the committee meet in Toronto on Tuesday, June 18, Wednesday, June 19, and Thursday, June 20, 2002, from 3:30 pm to 6 pm to hold public hearings on Bill 58.

"(2) That the committee meet in Kingston from 9 am to 12 noon on Friday, June 21, 2002, and in Ottawa from 2:30 pm to 6 pm on Friday, June 21, 2002, and in London from 9 am to 12 noon on Saturday, June 22, 2002, and in Chatham from 2 pm to 5 pm on Saturday, June 22, 2002, to hold public hearings on Bill 58.

"(3) That clause-by-clause consideration of Bill 58 be undertaken on Monday, June 24, 2002, from 3:30 pm to 6 pm and on Tuesday, June 25, 2002, from 9 am to 12 noon.

"(4) That amendments to Bill 58 be received by the clerk of the committee by 11 am on Monday, June 24, 2002, for distribution to the members of the committee by 1 pm that day.

"(5) That an advertisement be placed in one local newspaper in each of Kingston, Ottawa, London and Chatham and in the Toronto Sun and the Toronto Globe and Mail for one day and also placed on the OntParl channel and the Legislative Assembly Web site; and a press release be distributed to English and French papers across the province. The clerk of the committee is authorized to place the ads immediately.

"(6) That the deadline for witnesses who wish to appear before the committee in Toronto be Monday, June 17, 2002, at 3 pm.

"(7) That the deadline for witnesses who wish to appear before the committee in Kingston and Ottawa be

Wednesday, June 19, 2002, at 5 pm and for those who wish to appear before the committee in London and Chatham be Thursday, June 20, 2002, at 5 pm.

"(8) That the clerk advise each of the three parties by 12 noon on Monday, June 17, 2002, of the numbers of witnesses that have called in. If those witnesses can be accommodated in the time available, the clerk, in consultation with the Chair, may schedule witnesses on a first-come, first-served basis. If there are more witnesses than can be scheduled in the time available, the clerk is to provide a list to the three parties after each deadline has passed and each party will provide the clerk with their prioritized list to be scheduled for each location.

"(9) That the deadline for written submissions be Monday, June 24, 2002, at 12 noon.

"(10) That all witnesses for Bill 58 be offered 10 minutes in which to make their presentations.

"(11) That no opening statements be made by any party or the minister.

"(12) That, should a witness make a request prior to appearing before the committee for reimbursement for travel expenses, the committee authorize reasonable travel and meal expenses for witnesses travelling from outside the greater Toronto area or the greater municipal area for the locations to which the committee is travelling, based on mileage at the government rate, or economy airfare or reserved seating train fare to be provided on submission of receipts or a statement of mileage travelled.

"(13) That the clerk of the committee, in consultation with the Chair, be authorized prior to the passage of the report of the subcommittee to commence making any preliminary arrangements necessary to facilitate the committee's proceedings."

The Vice-Chair: All in favour? Carried.

RELIABLE ENERGY AND
CONSUMER PROTECTION ACT, 2002LOI DE 2002 SUR LA FIABILITÉ
DE L'ÉNERGIE ET LA PROTECTION
DES CONSOMMATEURS

Consideration of Bill 58, An Act to amend certain statutes in relation to the energy sector / Projet de loi 58, Loi modifiant certaines lois en ce qui concerne le secteur de l'énergie.

JOHN WILSON

The Vice-Chair: At this time, I'd like to call on our first presenter, Mr John Wilson. You have 10 minutes for your presentation. Please state your name for Hansard. You can use all your 10 minutes for your presentation or, if you want questions to be asked, any time that's left will be divided among the three parties. Welcome to the committee.

Mr John Wilson: Good afternoon, everyone. My name is John Wilson.

I have only four points to make. The first three are related. They are: these are sham consultations, the government has no mandate and the people of Ontario demand this sell-off be stopped. My fourth and last point is that by breaking its promise to listen to Ontarians the government is wasting the money they need for their hospitals, their schools and the livelihood of the people of Ontario.

First, the sham consultation: these hearings are a sham. They are confined to a few hours in a few cities for a few days. How can the government do so little so hastily when all the people across this province are speaking out against this sell-off?

This committee isn't even visiting cities where dozens of elected councils across Ontario, representing the majority of Ontarians, have passed motions saying, stop selling our electricity system, stop deregulating our rates. Northern Ontario isn't included at all. The real consultation that this issue needs is a consultation with all Ontarians.

My second point, no mandate: the government has no mandate to privatize 49% of Hydro One or 1% of Hydro One or any part of the electrical system. The government didn't campaign on privatizing Hydro One. This legislation isn't a mandate; it's a move to get around a court decision. A little debate in the Legislature and this hearing isn't a mandate; it's an insult to Ontarians.

Polls show that 87% of Ontarians want their vote, not the Legislature, to decide this issue. Ontarians voted to make Hydro One public. They have a right to vote on any move to change that status. The real mandate that this issue needs is a vote by all Ontarians.

My third point, Ontarians' demand: in public meetings, in poll after poll, in elected councils across Ontario, in the courts, Ontarians demand that the government stop deregulating rates and stop selling off the electrical system, including Hydro One.

In Ontario, with its small population, its big distances to cross, its cold climate relative to the US and its direct competition with Americans, electricity is as essential as water. Ontarians are saying, "Don't sell our electrical pipes, Hydro One. Don't sell the electrical juice that flows in them, the generating part of the system."

1540

My fourth and last point is that by breaking its promise to listen to Ontarians, the government is wasting the money they need for their hospitals, their schools and their livelihoods. The government is not listening to the

impartial Provincial Auditor, whose most recent report states, "It is the view of forecasters that over time ... the price of electricity in Ontario and its neighbouring states will converge," and in the same report, that the wholesale price of electricity will go up as much as 240% in the last half of the decade. This would cause residential rates to jump 170% of their current value. Ontario would be economically devastated.

The Bank of Canada won't be able to change interest rates to save our economy as cost-driven inflation brings Ontario to its knees. How many hospitals and how many schools will we close in Ontario when the rates the Provincial Auditor referenced remove \$5 billion to \$7 billion from our pockets every year and ship most of it outside the province?

The government is not listening to three of Canada's most eminent economists: Myron Gordon, Doug Peters and Mike McCracken. Their analysis shows that Hydro One is worth at least \$9 billion. So now the government, instead of selling it for \$5 billion, is proposing the privatization of half of the company at a loss of \$2 billion. This money would let our schools and our hospitals make ends meet. Yet the government is proposing that we give it away to investors.

The government needs a little public sector discipline. Hydro One is making money, Hydro One didn't run up big debts, Hydro One was doing OK, executive compensation included, until the government tried to add private sector discipline.

In yesterday's budget, the government didn't provide the money our hospitals and schools need and it did not balance the budget. What it did was add about \$2 billion to its revenues from the proposed future sale of our electricity system. We're looking at a financial disaster that's larger than the Highway 407 mess so the government can have the façade of a balanced budget. Ontarians won't be fooled by this cheap trick.

The government is not listening to people, who won't be able to buy a cup of coffee in a restaurant, take their clothes to the laundry or pick up bread from the bakery without feeling the pain of the sell-off of the electricity system. People will be hurt more by the inflation caused by the government's electricity program than by their rapidly increasing electrical bills.

The government is not listening to business people, who depend on local buyers and American tourism. Local buyers have less to spend as prices rise, and as prices rise there will be fewer and fewer American tourists. When I talked to the heads of business improvement associations, they were shocked at both their electricity rates and the increases they were getting from their suppliers.

The government is not listening to farmers, rural Ontarians, remote communities and northern Ontarians. The government electricity program will abandon these people and end the rural rate assistance program in just four years' time.

The government is not listening to industry: to steel making, mining and refining, pulp and paper and auto

manufacture. The auto parts industry in Ontario is labour- and energy-intensive. It employs five times the number of workers that the Big Three auto assemblers employ. I've talked to workers from auto parts plants whose managers have told them that the current increase in electricity rates will force layoffs. As rates rise, these plants will close. The government's electricity program will destroy Ontario's biggest industry.

The government is not listening to hospitals and schools. Where do hospitals and schools get the extra money for the electricity, the increased laundry costs and the food bills? Instead of helping hospitals and schools, the government is proposing to waste \$5 billion to get this program up and running. It's spending money on restructuring, setting up new companies, writing massive computer programs, advertising, increased executive salaries, billing changes, consultant fees, constricting new facilities, training, mergers and acquisitions, moving to new facilities and rental facilities. It's spending money initially to hide higher rates charged by private electricity corporations and, in addition, it's letting retailers take \$250 million to \$300 million a year from the pockets of Ontarians. Ontarians don't want a sales job. They don't want to debate income trust versus lease versus partial IPO. They want the sell-off to stop now.

The Premier is behaving worse than his mentor Mike Harris. Harris stormed ahead and ignored Ontarians. Premier Eves is telling Ontarians he'll listen to them, but instead he's storming ahead and ignoring them. The offspring of parents who provide a bad example often follow that example.

Premier Eves needs to do more than talk about listening. He needs to stop abusing Ontarians with the sell-off of their electricity system. He needs to shelve this deregulation program as 22 American states shelved theirs. He needs to close the market, as California closed its market.

The government can choose to break its promise to listen to Ontarians. It can choose not to represent the will of the people. But if it does, it will certainly hear their voices during the next election.

Do you have any questions?

The Vice-Chair: We have a couple of minutes for questions. Mr Hampton, do you want to go first?

Mr Gilchrist: On a point of order, Chair: normally we would start the rotation with the official opposition.

The Vice-Chair: OK, we'll follow that.

Mr Michael Bryant (St Paul's): Thank you, Mr Gilchrist and Mr Chair. We'll get to you, Mr Hampton.

First, thank you for coming. Your opposition to the sale of Hydro One is obviously one that I and the official opposition agree with. Perhaps you could expand a little bit, because I think the committee should hear why not only the sale of 100% of Hydro One is wrong but the sale of 49% is wrong. Could you talk a little bit about that?

Mr Wilson: I'll reference the economists I talked about—Myron Gordon, Doug Peters and Mike McCracken—who are three of Canada's most eminent economists; in fact, eminent south of the border also. Their

analysis, looking at the revenue stream of Hydro One, shows that the company is worth \$9 billion. The government was proposing to sell it for \$5 billion. Now what they're doing is taking half of the company and looking at selling it for around \$2 billion.

What we're doing here is taking in excess of \$2 billion that belongs to Ontarians and letting it go. We're also depriving that company of money it needs for infrastructure, and we're lessening the control the government has over it because now they have to listen to other shareholders etc. All the moves they're making are bad moves.

I guess the point I made in the beginning—the political point—is that the government should support the will of the people, and the people of Ontario definitely want the electricity wires in the hands of the public.

Mr Bryant: Agreed.

The Vice-Chair: Mr Hampton, you have a minute if you want to ask a question.

Mr Howard Hampton (Kenora-Rainy River): It now looks as if the government's favoured mechanism is to go by way of an income trust. Do you have a sense of an income trust, and what are your views on a government that would propose to follow an income trust sale, lease or whatever you call that particular mechanism?

Mr Wilson: I think the people of Ontario are going to be very upset, because they're not looking at income trust. As I said, they're not looking at lease. But an income trust itself will peel out all kinds of money from the company. That was one of the government's main arguments for getting private sector investment. Well, they're not going to get private sector investment. What they're going to get is that the owners of the unit trust will be pulling out most of the money the company needs to move forward. To me, this is a big contradiction.

Politically it's an insult to Ontarians, and economically it's not the thing to do because it removes money. My same point again is that the money those people will pay for the income trust will leave \$2 billion of taxpayers' money wasted in the hands of investors, because the value of the company, according to the government, is much lower than the value according to economists who have had a look at it.

The Vice-Chair: Thank you very much for coming before the committee today.

ONTARIO ELECTRICITY COALITION

The Vice-Chair: Our next presenter is the Ontario Electricity Coalition. Could you state your name for Hansard, please.

Mr Paul Kahnert: My name is Paul Kahnert, spokesperson for the Ontario Electricity Coalition. I've worked at Toronto Hydro for 24 years, the last 12 as a line crew foreman, and I'm a member of CUPE Local 1.

The Vice-Chair: Welcome.

Mr Kahnert: Here we are, 100 years later, debating the same issues. A hundred years ago, the pro-privatiza-

tion crowd used the exact same language and the exact same rationalizations for private power. They were wrong then, and the Conservatives are wrong now.

1550

Sir Adam Beck's deathbed wish—and he's been invoked here a number of times—was that he could have lived long enough to build a band of iron around Ontario Hydro and keep it from the politicians, keep it from the politicians like the Conservatives.

I'd like to show you my T-shirt. This is from BC. It seems like they have the same kind of politicians out there as well.

But the question I have: what are you going to do? Are you going to take down Sir Adam Beck's statue there on University Avenue and bury it in a garbage dump somewhere? Because, you know, he was a Tory too.

Anyway, there are two issues here. The first one is public power versus private power. Well, public power is cheaper than private power, around the world. Public power is cheaper than private power in the United States by 18%. That's a profit margin, and we can prove it. The question we ask is: why would Ontario be any different?

The second issue is democracy. What do people want? What is the will of the people? The Ontario Electricity Coalition spoke in 49 towns and cities. I didn't see anybody who wanted privatization. As a result, over 40 municipal councils passed resolutions against privatization and deregulation, representing almost 7 million people in the province of Ontario. That's the majority of people in Ontario.

The courts have ruled that it's illegal to sell Hydro One, and it is still illegal today.

The Conservatives do not have a mandate to sell even one hydro pole or one hand generator. You can't fake a mandate by passing legislation and inventing all kinds of rationalizations.

The Ontario Electricity Coalition is on very solid ground with the people of Ontario, and we can tell you that nothing less than 100% public power will do for them. You do not have a mandate to sell even 1% of Hydro One.

The Conservative government has often talked about referendums, yet the Conservatives eliminated the law requiring a referendum in the sale of public assets in Bill 26, the omnibus bill back in 1996. Manitoba just recently passed a law requiring a binding public referendum if they want to sell Manitoba Hydro. Do the people of Manitoba have more rights and more say than the people of Ontario?

The Conservatives won't have a referendum on the issue of Hydro because they know they would lose by probably more than 90%. So why are they doing it? What is the rush to sell off 49% of Hydro? Even Judge Gans asked, "How are you going to pay off the debt when you separate the debt from its revenue stream?" The government lawyer said they had to hive off the debt because it made it easier to sell. This is not representing the interests of the people of Ontario. Normally when you sell a business, the debt and the risks go with it. Are

you trying to make up for revenue shortfalls because of tax cuts? That's like selling the goose that lays the golden eggs, because when the next revenue shortfall comes, what will you sell next?

Are you trying to sell it because the Conservative Party of Ontario has received almost \$1 million in donations from companies that will make huge profits? How is it a credible position for politicians to be promoting billion-dollar profits for mostly American and British corporations? Why not keep those profits here in Ontario, in Canada to pay for things like health care and education?

Even with the so-called problems at Ontario Hydro, we still pay less, 30% less, than any US state. I had that fact backed up by the Ministry of Energy Web site.

Even selling 1% of Hydro One makes us subject to the rules of NAFTA. The Conservatives have been very misleading on the issue of NAFTA. Why are the Conservatives so anxious to implement the Bush continental energy plan? The Conservatives are misleading people by saying, "We only sell 13% to the US, and it doesn't really affect us."

The Conservatives had a conference last November called Selling Energy South. Its main title was "Profiting from Cross-Border Trade of Canada's Largest Resource." In attendance was Jim Wilson, the Minister of Energy, the embassy of Mexico and the US State Department. They talked about building a lot of power lines into the US. That's why they're so anxious to privatize Hydro One, even 49%: so business can control and accelerate the construction of power lines into the US.

It's important to note that when New Zealand first privatized, they only sold 10% of the company. In 1994, they ended up with a 94-day power outage in Auckland, New Zealand. They ran their company into the ground.

The Conservatives talk a lot about the benefits of choice and market discipline. Well, the age of choice has been cancelled in 22 states, including California—you have to go with your regular supplier—and market discipline has been revealed to be market manipulation, as prices have been manipulated higher to maximize profits in California, Alberta and Great Britain.

In the Macdonald report, it says over and over on many different pages, sometimes five times on a page, "We believe." "We believe," "We believe." That's all we ever hear out of the Conservative government: "We believe."

The people of Ontario don't believe you. They want answers to these and many other questions. The privatization of electricity has not worked anywhere and, most importantly, the people don't want to hear it.

I've got one question to ask. I tried to ask this question to Mr Stockwell and he wouldn't answer me. He just got angry and left. But the one question I have for the Conservatives is: given the record of electricity deregulation and privatization around the world, what's the plan to get back our electricity systems, transmission and distribution and generation, if this risky experiment doesn't work? This is the government of Ontario. Surely they

have a contingency plan to get these systems back if it doesn't work. That's my question.

The Vice-Chair: Thank you very much. That leaves about three minutes. It's time for the Conservative caucus to ask questions, if they'd like.

Mr Gilchrist: Let me deal with your last point first. I don't know what I would take from the results of the generation side so far to suggest that there's a need for that sort of doom-and-gloom scenario. As you're probably aware, your brothers and sisters in the Power Workers' Union strongly support every initiative the government has undertaken on changes to the electricity marketplace, and most particularly in the sell-off of enough OPG assets to guarantee we have competition. In the case of Bruce, the leasing of that plant has already resulted in profit-sharing payments to every employee at Bruce of \$3,920 over and above their union rates.

I guess first I'd throw a question back at you: what is it the Power Workers' Union doesn't know that you know?

Mr Kahnert: You haven't answered my question on what's the plan to get our systems back, but I'd be happy—even for the first two years in California, to answer the first part of your question, electricity rates were low. The Power Workers are one local of 1,500 locals in the Ontario Federation of Labour. The Ontario Federation of Labour has passed resolutions against deregulation and privatization, as has CUPE. The Power Workers are now disaffiliated from CUPE Ontario. At the CLC, they've also passed resolutions. The Power Workers are, in fact, of 2.3 million unionized workers in Canada, the only ones.

They've signed profit-sharing contracts. Those profits they're making are coming at the expense of the people of Ontario. Those profits should be going to pay down the debt, they should be going to pay for building more infrastructure and fixing the infrastructure, and they shouldn't be benefiting in such a fashion.

Mr Gilchrist: If the cost of renovating Pickering is twice what the costs have been to renovate Bruce, and Pickering keeps missing deadlines whereas Bruce keeps beating deadlines, tell me precisely why that \$1.1-billion difference would even be on the table. If the vaunted public monopoly is doing so well, tell me why Pickering is so far behind schedule in the hands of its current management and workers?

Mr Kahnert: Let's look at what profits are doing at Bruce. The Bruce reactor was given away—Bruce B—and your profits are forecast to be \$1 billion more than originally forecast. Why not keep those profits here in Ontario to pay for things like education and health care? You're sending these profits away, out of the country.

Mr Gilchrist: You seem to have missed the point. If they make more money, it's because they've invested their own money. It's their return on investment, not taxpayers' money. So if Bruce has now invested over \$1 billion to bring back reactors that OPG said would never work again, why would any of us look askance at them making a profit? Your union walked away. Everybody

walked away from the Bruce plant. These guys were prepared to put \$1 billion up.

Mr Kahnert: And who's going to pay for the decommissioning of those plants when they walk away from what their billions of—

Mr Gilchrist: Who would have paid for it already?
1600

Mr Kahnert: Who is going to pay for that? Those same companies own nuclear reactors in the States and they have to put so much per megawatt hour into paying the decommissioning of those plants. Of course they didn't want to own the asset; they leased it. It's the same as when you lease a truck: you beat the snot out of it for five years and then you give it back and they have to pay for it.

Mr Gilchrist: Well, I've have news for you: they had to be decommissioned one day after they started up. Somebody was on the hook the day that plant was turned on, and nothing has changed in the last few years.

Mr Kahnert: We would have been further ahead giving them the plants for \$1 and having them pay for the decommissioning, because you have privatized the profits.

Mr Gilchrist: Maybe the next time one comes up, if you'd like to make that offer—

The Vice-Chair: Thank you very much, Mr Kahnert, for coming in. We appreciate your taking the time to come before the committee.

Is Peter Holt here? No.

EDIK ZWARENSTEIN

The Vice-Chair: Is Edik Zwarenstein here? Welcome to the committee, Edik. You have 10 minutes to make a presentation. You can either use the whole time yourself or, if there's time left, questions will be asked by the political parties.

Mr Edik Zwarenstein: Thank you. I'm a professional engineer, self-employed right now, formerly of Hydro One. I just want to say to the committee, particularly the Conservative Party members, in my simple way that I think Bill 58 should not be allowed to proceed and that Hydro One should not be privatized at all.

For 96 years, Ontario Hydro served hydro well, served the province well. It needed fixing. There's no doubt about that; I think everyone acknowledges that it needed fixing. It should really be fixed by this government which is in charge. To blame Pickering on the local management when this government is actually in control is ridiculous.

A public hydro provides reliable electricity at predictable and low prices to the user and to the business community. We do not know that that will be the case in the coming years.

Rather than listen to a population which is broadly happy with the public power, you are choosing to go with a philosophy which has been put together by special interests, serving that class of wealthy investment bankers and big corporations that you hobnob with. I pull no punches on this.

Rather than listen to those who say we should be encouraging local industry through a public power system, you choose to promote instead an Ontario forever subservient to the high rollers, speculators and charlatans who are good enough to buy up our resources and then suggest that we should be grateful for that. I think you should be ashamed.

Rather than promoting a cross-Canada electricity system which would develop Ontario and other provinces so that we can export from secondary industries, you promote continued servitude to the United States market.

Ownership of Hydro One does matter; it does make a difference. We know that many private companies are controlled by a wealthy group that owns only a very small part of those corporations. It doesn't take much. If a private consortium garners even 5% of Hydro One shares, given the sickening compliance and kowtowing of so-called leaders of industry which our political leaders in this province show, we are not at all convinced that the public would be in control.

It has been estimated that the debt would be paid down by only a half-billion dollars from the sale of half of Hydro One. That's roughly the equivalent, I believe, of what Hydro One earns for the public coffers in less than two years. With a public Hydro, at the end of the two years the public would still own that golden goose.

We've heard on numerous occasions reference to the fact that the power workers support this issue, and what do they know that no one else knows? Well, it amazes me that the Conservatives would reference the power workers, any union. It may suit them. But unions do make mistakes. There's a valley in Victoria, Australia, called the Latrobe Valley which was at the heart of privatization in Australia. There was a thriving community, not unlike the one we have in Oshawa or in Port Elgin or Kincardine, that used to be the centre of the power industry and it's now devastated. There lived 10,000 power workers and their families and ancillary industries at the time competition was introduced in the 1980s. That area now employs only 1,700 power workers and it's socially devastated. There are a number of millionaires somewhere, that's true, but in that area they are 20% unemployed. So the power workers could be wrong.

You have allowed secret deals to protect the largest industries from the ravages of this dumb market, and just because it hasn't made a blue yet, that doesn't mean it won't. But you're not doing the same for the general population. Your Ontario Energy Board and the independent marketing organizations are lame, as far as the population is concerned. Retailers, marketers, speculators and middlemen all feed on the general population's uncertainty and get a cut of the action, but they don't create any new value except for themselves, and this is often at the expense of the vulnerable.

There are more profit-consuming mouths to feed in the electricity cycle, the likes of Enron and their clones. People were never demanding choice. Rather, they were demanding that the government properly control the utility which people had entrusted to their government.

Instead, the government is looking to sell it off, without any mandate.

So I ask that you not go through with this bill, that you not continue to sell off public assets to help the rich and that you take back those you have already given away. These assets and the public revenue which they bring could better serve those who are not so wealthy than those whom you serve. Thank you.

The Vice-Chair: Thank you. That allows about five minutes split between the two opposition parties.

Mr Bryant: Thank you very much for coming. I don't know if you are willing to speak to this point, but I'd like to ask you. We certainly do agree that the sale of Hydro One is wrong. We need to keep Hydro One public. I'm wondering if you can speak to the issue of how the volatility around the future of Hydro One may have effects on the generation side, because you made references to both. Do you have a view on that as a professional engineer? I just wonder if you have a view on the extent to which having a volatile transmission system ends up affecting the entire electricity market.

Mr Zwarenstein: It's not so much the generators that are volatile, of course it's the price that's volatile, because electricity requires an instantaneous match between supply and demand. It takes very little variation of that to leave you with an unstable system. As has been found now with the United States generators, a number of them deliberately withheld generation. It's not in question any more, except if you want to be silly about it. Everyone knows that that was done. They did that at a time when it was critical—or when it wasn't critical. If there is not a demand, whatever is connected is vulnerable to a blackout. Since the main motive—the only motive, let's say—of shareholders of a private corporation is profit, they will game it right up to the edge and they will frequently go over the edge.

I certainly don't see that it's a good thing for corporations to plan their futures, to plan a developing industry when you don't know what the price is. It's a really big question, whether a plant locates in Toronto—this is what the Conservatives were telling us for many years. All these plants will leave if the price goes up. We didn't have that system. We had a system whereby a fellow who put up a new automobile plant could say, "I know what my costs are going to be. I know they're not going to go up far in excess of inflation, and that's a pretty good gamble." There are many in California who wouldn't do that.

Mr Hampton: I was quite surprised when I read the original privatization document that was put out. There's a section of the prospectus that is entitled "Corporate Strategy," and immediately under that heading—I think it's on page 47 of the prospectus—it says that the corporate strategy would be to link low-cost electricity generators in Ontario with the higher-priced market in the United States and to build the transmission lines which would allow that electricity being generated in Ontario to be sold in the United States. What, in your view, would be the outcome of that?

1610

Mr Zwarenstein: I would concur with the auditor, who said that it's likely our prices will head toward their prices. And why wouldn't they? If they are free to sell direct to a high-priced consumer, why would they not do that rather than sell here? Out of the goodness of their heart? I don't think so. So my view is that the prices would go up.

Mr Hampton: The government has offered up as one of their excuses for selling off Hydro One—the original argument was, “Sell off all of Hydro One.” Now I think they're responding to political pressure and say they'll only sell off 49% of Hydro One. One of the original rationales they offered up was that this infusion of money used to purchase the shares would allow for the maintenance and the actual improvement of the transmission lines in Ontario. Yet I was really shocked when I read the privatization document, the prospectus. While it talks about building a \$1-billion transmission line under Lake Erie to transmit electricity produced at Nanticoke into Pennsylvania and Ohio, and while it talks about spending about \$50 million to enhance the transmission tie-in with Michigan and about \$100 million to enhance the transmission tie-in with New York, nowhere in that privatization document, that prospectus, does it say anything about or does it have an investment strategy for maintaining or improving the transmission system within Ontario. What does that say to you?

Mr Zwarenstein: It says to me that they are probably very friendly with George Bush. So essentially what's happening is, Ontario is becoming raw materials provided to the United States in the same way as we do with minerals. We ship them there and then everything gets manufactured there, rather than we do the secondary industry here. Electricity is an advantage to our local industry, so one would hope that we would develop it as a cheap resource for Ontarians that we could then develop industry and export finished goods, which creates more jobs. But I'm not an expert.

The Vice-Chair: Thank you very much, Mr Zwarenstein, for coming before the committee today.

Mr Hampton: Mr Chair, I simply on a point of order want to raise an issue. I understand that the government has adjourned the House for the day. They haven't adjourned debate; I understand they've adjourned the House. Is the committee still permitted to sit when the House has been adjourned?

Mr Gilchrist: I can speak to that point of order, Mr Chair. The order of the House specifically says the committee can meet outside the sitting times of the Legislature.

The Vice-Chair: I believe that's correct.

Mr Hampton: OK. I just wanted to be sure.

HAMILTON AND DISTRICT LABOUR COUNCIL

The Vice-Chair: Is the Hamilton and District Labour Council here? If you'd like to come forward. Please

identify yourself. You have 10 minutes. You can either use the full 10 minutes to speak, or allow time for questions.

Mr Wayne Marston: I'm Wayne Marston. I'm president of the Hamilton and District Labour Council. Before I start my—I won't call them formal remarks because they certainly aren't. I'm no expert on hydro or the delivery of hydro but I do have some opinions from our consumers of hydro. One of the things that I was asked to give to this committee, particularly the members of the government, was the observation that perhaps it's time for the government members to stop representing the government to the people and start representing the people to the government.

I'm sure the committee will not be surprised in the least that the delegates to our labour council, representing some 35,000 unionized workers, have grave concerns about the privatization and deregulation of any publicly owned utility or service and its potential negative impact on their jobs and on their lives. I've included in part of my presentation that's been left up at the front an article on electric power privatization by Myron Gordon—I heard a previous speaker refer to the professor—from the University of Toronto's faculty of management. Trust me, I don't often quote management, but this seemed to be a very interesting article. He has written over 90 books and articles on economics and finance. He's the past president of the American Finance Association and a fellow of the Royal Society of Canada and is considered by many to be one of the country's leading experts on the generation, distribution and sale of electricity.

We found in reviewing Mr Gordon's article that a number of our concerns were well laid out in his piece, and I'll touch on just a few. Mr Gordon states in his article that it is his opinion that “The privatization and deregulation of Ontario's electric power industry is frightening. It shows ideological blindness, incompetence, or a complete disregard for the interests of the people of Ontario on the part of this Tory government and its business supporters.”

I would suggest that committee members should ask themselves this simple question: why do we have public ownership and regulation to begin with if not for the protection of the public good?

From our perspective, we simply do not understand any government that does not believe in public ownership of such an essential part of our economic fabric as our electrical energy supply.

One question recently posted on the government's Web site was: “How do we ensure Hydro's debt is paid down?”

We believe Mr Gordon in his article effectively speaks to that question with the following: “As for the province's transmission system and much of its distribution system—now called Hydro One—they were built by Ontario Hydro at a cost of over \$10 billion. They generated a practically risk-free cash flow ... of \$950 million in 2000 and 2001, and the evidence is that the profits will be substantially larger this year.”

The government talks about the fact that under the public offering of Hydro One shares, Ontarians would be able to invest directly in Hydro One, but in our view the public has already invested into Ontario's hydro-electricity supply via their taxes and the loyal payment of their hydro bills.

It's clear to us that the share offering as recently proposed by the provincial government wasn't for average Ontarians; it was clearly for the benefit of the government's wealthy friends and the corporations on Bay Street.

We also hold the view that since it was taxpayers' money which was used to create this profitable system, then taxpayers should reap the benefits of any profits generated by their investment, not private profiteers.

Just what will Ontarians be losing with the privatization of their assets? Again according to Mr Gordon:

"The writedown implemented on April Fool's Day in 1999 was from about \$26 billion to \$8.5 billion for the entire generating assets assigned to Ontario Power Generation. For the transmission and distribution assets assigned to Hydro One, the writedown was from over \$10 billion to \$8.6 billion.

"The enormous writedown of the generating assets" shocked Mr Gordon, so he undertook to evaluate them. He found that "a fair estimate of what these generating assets are worth to the people of Ontario under continued crown ownership is much more than \$8.5 billion—even more than their cost of \$26 billion." He estimates it to be \$40.7 billion.

I say to the committee: these are Ontarians' assets. This government not only seems prepared to practically give away their assets but as well to put the citizens of Ontario at risk of price increases which would close many businesses and put seniors and single-income families at risk of losing their very homes.

A question on the government's Web site was: "How do we protect Ontarians' jobs?" From the union's perspective we'd certainly be interested in that. In our community—Hamilton, that is—corporations such as Stelco and Dofasco in particular are expecting to be hard hit by the expected increases in hydro. That means job losses in Hamilton. Both of these companies have called for the government to proceed with extreme caution as they fear the ramifications, as was the case in California and Alberta.

Another of the government's own questions reminded me of the infamous "Have you stopped beating your wife?" type of question used in courtrooms. "How do we"—the government—"ensure Ontarians will benefit from this transaction?" The question implies that they will. Who says so? The evidence is not there. We see in time not only the loss of ownership of assets worth \$40.7 billion or, at best, the loss of the profits they make to private investors.

The government also questioned, "How do we ensure Hydro One's efficiency and enhance safety and reliability?" That's the easiest question to deal with, from our perspective. Retain control of the assets. Ensure account-

able stewardship of the company by keeping it directly accountable to the government of the day.

The Ministry of Labour is free to write legislation which protects workers in the workplace and should continue to do so in the energy provision sector.

I will close with a question to the committee: where has hydro deregulation worked? Not Alberta; not California. We say to you and the rest of the provincial government: if they believe so strongly in the privatization of Hydro or any other public service, call an election and let Ontarians decide.

The remainder of the presentation is the actual article from Mr Gordon, which I've included for your information.

The Vice-Chair: That allows us about three minutes for the government caucus.

1620

Mr Gilchrist: Thank you for coming before us here today. We appreciate your comments. You raised a number of issues; let me deal with a few of them.

You talk about how some companies have made the observation that they would be concerned. An increase in any one of their costs of doing business might cost jobs. Presumably, you're aware that there's no reason that company can't now sign a long-term contract for the delivery of their electricity—no different from why residents can. So why would Stelco, if they had those concerns—by the way, they already have a long-term energy purchase contract—simply not continue with the practice they've already put in place, even under the old public monopoly?

Mr Marston: To be frank, I'm not in a position to speak on behalf of Stelco.

Mr Gilchrist: You're the one who alluded to them in the report, so presumably you had that on first-hand information.

Mr Marston: That information was reported in the Hamilton Spectator. That's where I drew the information from. As well, there was a report in the Hamilton Spectator that Dofasco had actually written to the government, asking the government not to proceed.

Mr Gilchrist: Actually, they asked us to proceed on a different basis, so I don't think that's fair. If the Spectator said that, I wouldn't be surprised at their selective recounting of the news.

You cite Alberta and California, both of which have recognized the legislative errors of their ways and have fixed the problem. One of the earlier speakers mentioned that the actual opening of the marketplace went smoothly for two years and that it wasn't until a pretty unique set of circumstances took place, ie, the explosion of the natural gas pipeline that served the majority of the interests in southern California and a drought in Washington and Oregon that served most of the north end of California, that we saw the kind of outrageous pricing that took place in California. If you can posit a similar scenario here in Ontario, I guess it would have to be—if you think the water is going to stop flowing over Niagara Falls and all the nuclear plants were to go out of business, I think you might have—

Mr Marston: I suggest to you, sir, that also in that equation was the manipulation of the market.

Mr Gilchrist: No argument, and the California government has recognized some pretty significant errors in the drafting of their legislation.

Mr Marston: The previous speaker also suggested that this government should very well have a plan to withdraw from this privatization, and I haven't heard at any place or time of any such plan. Clearly, you yourself have just indicated there are possibilities of unforeseen catastrophes that could influence the market. I agree that those things happen from time to time, and you'd better have a way of getting Ontario out of this fix.

Mr Gilchrist: The problem with that scenario, even under the old Ontario Hydro monopoly, is that there's nothing you could have done about it. The connections outside this province are so small that you could never supply the energy needs of the province from the Americans, from Quebec and from Manitoba if you wanted to, if that sort of dire circumstance came about. So it doesn't matter who owns it. There is a physical limitation in the size of the interconnections.

Mr Marston: I won't dispute that, but one of the things that's happening in the interim is that you have a percentage of the dollars of Ontario being siphoned off to another private pocketbook instead of the public purse, where they belong. If they had been in the public purse, that would have been a resource we could have drawn on to take care of that situation or at least work to address it.

Mr Gilchrist: But again you're missing the flip side of that equation. You don't get something as a shareholder of a company unless you've put something of your own up first. Right now, 35%—

Mr Marston: The people of Ontario—

Mr Gilchrist: Let me just finish. Thirty five per cent—

Mr Marston: The people of Ontario put up their money for 100 years in the development of this resource that we have and we own this, and you're giving it away. You're saying that somehow most people—

Mr Gilchrist: You don't own it. You owe \$21 billion more than you have.

Mr Marston: That's fine, and I'm willing to pay it. Have you ever asked us—

Mr Mike Colle (Eglinton-Lawrence): The member is badgering.

Mr Gilchrist: And you're badgering us.

The Vice-Chair: Could we have order, please.

Mr Marston: Have you ever asked us if we were willing to pay for what we owe? We damn well are. You can raise my taxes any day for something like this. I'm glad to pay it. I'm glad to pay for health care and education, but you people don't ask us. It's very rare that we're allowed to come and sit before this government to talk to you, because you haven't been listening to any of us.

Mr Gilchrist: I can tell you we've had more days of hearing than any government in the history of the province. Maybe the union would like to pass a resolution—

The Vice-Chair: Mr Gilchrist.

Mr Colle: The member is out of control.

The Vice-Chair: Mr Marston, thank you very much for coming before us today.

EUGENE SPANIER

The Vice-Chair: Our next presenter is Mr Eugene Spanier. Welcome to the committee. You have 10 minutes for your presentation.

Mr Eugene Spanier: There are just four points I want to make.

(1) I have a family member who has been working at a nuclear power plant in Ontario for 20 years. He has been following this pretty closely, anxiously. He has been meeting with the new owners of that plant. He tells me it's pretty definite that the price of power is going to rise. That's one thing. As an employee of a nuclear power plant in Ontario, he's telling me that most definitely the price is going to rise now. He's not a high-position employee, but that's just the first point. The question is, how can you guarantee that it won't?

(2) Common or public goods should remain in public hands for many reasons, but the most important one is that with privatization, we've got limited liability. If there is ever any problem in service for anyone, who's going to pick up that liability? If it's a corporation, they can just walk out and file for bankruptcy or whatever happens with companies and corporations. The accountability that we have with the government is not there.

(3) Privatization will permit and encourage increased consumption. Profit is based on consumption. If the consumption goes down, profits will go down or the prices will go up. That's the only way they can make up the difference. If consumption goes down, the prices have to go up.

I have a concern about pollution. With increased consumption, we have increased pollution. With a private company, if we want to increase consumption, pollution is going to go up, whether it's spent nuclear waste or coal fuel.

(4) The last one is that with privatization, I've seen service stratify. I've seen that with the rail in Canada. I believe that people with lower economic means will not get a guaranteed minimum quality of service at a reasonable price. They would be the ones to suffer the most. They could lose out, as we've seen in all the examples in California and Alberta. People who can't afford to pay or to have their own generators are not going to be guaranteed the service that Ontario has had in years past. Is that service going to be guaranteed?

The Vice-Chair: That allows six minutes for questions.

Mr Colle: I don't know if you're aware of another privatization scheme of this government that occurred in 1999: the Highway 407 privatization scheme where the government, again, desperate to balance its books prior to an election, gave away an incredible, valuable public

asset, the 407. Not only did they give it away for—usually a benchmark was a 25-year lease. They have leased it for 99 years to a Spanish consortium, which includes one of the former ministers of this former cabinet, Mr Al Leach. It's estimated that the value of that highway, if it was up to the value today, as a result of the Australian consortium that wanted to buy into it—the government probably undersold that asset by up to \$5 billion because they were in a rush to do it.

Given this government's track record—by the way, it was the Minister of Finance, who is the Premier, Mr Eves, who takes credit for the 407 privatization—what word of warning would you have for a government that seems to be hell-bent on privatizing Hydro One, in light of the 407 mistake, which I think even the candidates for this government's leadership agreed was a mistake during their leadership convention? What advice would you give to this government when they're seeking to make the same mistake with Hydro One?

Mr Spanier: It just sounds like a bad investment. But I wouldn't classify the highway as a public good like I would classify water or power. The highways are important, especially economically. I try to drive less and less. As a citizen of Ontario, I'm a little embarrassed that we don't own it and that the value has gone up. It's speculation, what the price is. It can go up and down, depending on the market. That reminds me of real estate deals, the municipal real estate board. I'm really concerned about common public goods. I think the highway doesn't fall into that.

1630

Mr Colle: So you don't think our highways are common public goods, common public resources, assets?

Mr Spanier: If the highway is closed or if the highway falls into a state of disrepair, I don't think it's going to be life-threatening to people, but I think a loss of reliable, sustainable power at a reasonable price to all citizens would be significant. I agree that it's a common good but I don't think it's as important as water or power.

Mr Hampton: I actually want to pursue some of the comments you have just made because I think they really define for us the difference in the new economy. My sense is that with the degree of computerization, the degree of automation and the new information technologies and the fact that the telecommunications industry itself runs on electricity, electric pulses going down a line, in fact electricity in the 21st-century economy is more essential than it's ever been. I think one of the things that people in California objected to is that at a time when electricity is more essential, they could neither depend upon the supply nor could they predict what the availability would be, and finally, they had no idea from one day to the next how high the price was going to go.

Can you think of any reason why a government would want to hand over something that is so essential now to our economy, and so essential just to participation in society, to a profit-driven corporation, when we've already seen from the privatization prospectus that the

strategy of a privatized company would be to move as much of that electricity into the United States as possible?

Mr Spanier: We haven't got a lot of time to talk about market economies and a faith in market economy that it will provide better efficiencies or greater service. I would say that that's a gamble. I wouldn't say that it can't provide a better service but I think that the market economy can't guarantee that you would have reliable service. I think that with the limited liability of corporations running anything, you're in for limited service, and that accountability that falls to government will not be there. I believe it's a faith in the market economy which I do not think is strong enough to support moving in that direction.

Mr Gilchrist: Thank you, Mr Spanier, for your comments. Let me just ask you, though, in the context—and you've been very candid that different services require different degrees of support, I'm struck by the fact that Liberals didn't have any trouble selling off the last of Air Canada and that was once our monopoly in this country. I have yet to have one constituent tell me that they want any kind of representation from the provincial government to the feds to undo the opening up of telecommunications. I have yet to meet a person who bemoans the fact that Bell Canada is not their sole supplier of phone services. That was a monopoly.

Let me address some of the things that Mr Kahnert mentioned earlier. First off, I don't know what fantasy world he's living in. The ministry has nothing on its Web site that says we're 30% cheaper than every other state. In fact, let me quote to you a couple of numbers and then ask a question. In Alberta, the average wholesale price has fallen 67% from a year ago, when its retail market opened. I have the full stats here if you would like the hard numbers. In the United Kingdom, the average residential bill is 32% lower in real terms, even adjusted for inflation, compared to 10 years ago. In Australia, prices have come down since the market was opened. In New Jersey and Pennsylvania, residential consumers paid 10% less in the year 2000 than they did in 1997. In Texas, retail competition offered consumer savings of 10% this year. The price today in Ontario—in fact I think I had the exact price just going in. You know that when the market opened it was 4.3; today it's 3.1. And for those who say every other state, the so-called private model, doesn't work, New York was 2.9 cents today.

Given all those numbers, why would a government not reasonably look at something other than the status quo, given the success stories that appear to happen from bringing market sector discipline?

Mr Spanier: Only that that is strictly an economic success. I don't deny that it is a success; I just think there's a large element of risk here: for example, pollution, which is considerable. In Ontario we've got a big smog problem. That's significant.

Secondly, reliable power: I know that could be a transitional problem, and when it's straightened out and ironed out it will be reliable. But the point is that it is

essential and it must be guaranteed. If it costs more, I'm willing to pay more, as a citizen. I don't want the lowest price for power. What I want is a reasonable price. I'm willing to pay even a higher price than neighbours if that's what it costs us for better air. If hospitals have to build their own generators now because they cannot count on private power supplies, I get anxious about that. So that's what I'm concerned about: the element of risk.

Mr Gilchrist: We share your concern about reliable power.

The Vice-Chair: Thank you for coming before the committee today, Mr Spanier.

Is the representative of the Rexdale Citizens Association here?

Is Peter Holt here?

Is any representative from Stelco here?

We'll wait and see if we can find somebody from the Rexdale Citizens Association.

We're a little ahead of schedule, so we'll recess for 10 minutes until 4:50 for the Rexdale Citizens Association.

The committee recessed from 1637 to 1649.

ANDREW FRAME

The Vice-Chair: We'll get going again. I understand there is no one from the Rexdale Citizens Association here yet, so would Andrew Frame like to go now? Welcome to the committee. You have 10 minutes. You can either use the whole time or you can use part of it and allow time for questions, whichever suits you.

Mr Andrew Frame: Start the clock.

Thank you, Mr Chairman, for the chance to appear before your committee. My name is Andy Frame. I'm a former senior adviser with the Ministry of Energy for Hydro matters. I worked for 15 different Ministers of Energy and eight deputy ministers over a period of 17 years, and I was doing Hydro matters at a high level all the time.

I've left with your clerk a summary of my background as it relates to Hydro matters. I've done a lot of other things, but this is what I've done in the Hydro business, and I think you'll find it of interest.

I've got 10 minutes. I'm going to try to talk to you about three parts of this issue in the first five minutes and hopefully leave the second five minutes for questions.

Bill 58 has some fancy title about reliability and other things, but it's really an amendment to Bill 35, the old Electricity Act, 1998. Back in 1998 we knew you had done that bill in a hurry and didn't do it right, and there's more than this that has to be fixed. But finally you're fixing something.

I want to make three points in my presentation. First, the transmission system: in this bill you've set it up so that the land of the transmission system is going to continue to be owned by the government. You haven't gone far enough. Transmission is usually defined as voltages above 69kV. The whole transmission system should be owned and retained under government control, and I would suggest it should go to the IMO, the

independent market operator, because it's a vital part of the background of the whole electrical power system in Ontario. It's the backbone of your electrical power system, and if you lose electricity in Ontario and that transmission goes down, you know you've got real trouble.

It's so important that you should not be leaving decisions about capital investment, expansion, maintenance and other things to a private operator. It has to be retained in government control—a government agency—and I would recommend the IMO. That's my first point.

The second point is that Hydro One is basically two things: transmission and the distribution system. The distribution system services rural areas—I think it's now about 85 small municipalities. They're the electrical power distributor to 85 small municipalities, plus Brampton. I wouldn't call Brampton small; Bill Davis will have my head. But that's an important service to these communities.

In the electrical power distribution system, customer service should be the lead and key and only thing you're looking at. Customer service means safety—you've got to run a safe system—reliability and financial stability leading to affordable rates. You've got to keep those three things in mind running that distribution system.

When you put Hydro One under the Business Corporations Act and transferred it to a commercial operation, in effect you made share value for the shareholder the driver of Hydro One. When decisions start being made to enhance share value—to maybe improve dividends or boost the price—you get into trouble. You shouldn't be doing that. I strongly believe you should keep Hydro One in public ownership and share value should not be the driver. You should somehow find a system to eliminate share value from that and keep customer service as your number one target. That's my second point.

My third point is that you should rid yourself of the notion that only private enterprise operations can be efficient, that you have to get rid of the public ownership of Hydro One and go to private enterprise or shareholder ownership to get efficiency. You know—we all know—that's not true, and Nortel is our number one example right now, a great big private enterprise. The world is filled with private enterprises that you thought were efficient and that investors thought were efficient, and they've gone down the drain.

What gives you efficiency is the direction that is given by your board of directors to your top management. If you hire the right top management and give them the right direction and make sure they adhere to that direction, then you get efficiency.

That management can have incentives, but the incentives should be tied to customer service. Give them the incentive of eliminating power outages. You'll never eliminate all the power outages in this system, but minimize them; minimize the number of minutes you have in power outages. Improve your billing and collecting service to give customers better service in billing and

collecting. Those are the kinds of targets top management in Hydro One should have, not share value. They can be bonused. You'll make more money in Hydro One as a commercial operation with those kinds of targets and management can be compensated for it.

You and I know that Hydro One, since it became Hydro One, is a very money-making operation. First of all, they paid a chunk of taxes last year—\$300 million or so—and they paid dividends. So Hydro One is a money-maker for the government. You shouldn't be getting rid of Hydro One into a commercial operation for other shareholders. The government should keep it, collect on the taxes and collect on the dividends. Get a board of directors and a chairman that give management the direction for efficiency and good management and require they do it. That's my third point.

I'm going to turn to my left here and talk to the government members for just a minute. I know from my past experience that what you think as government members is ultra important. Over there we have two opposition members, and one of them is Mr Hampton. I don't minimize their importance, but if you guys don't agree with some of these changes, nothing happens. They're going to propose over there and they've got a lot of good ideas, but it's time you started agreeing with them.

What you've got right now is that your minister, Mr Wilson, told us four years ago that you're going to have lower rates. You and I know that we don't have lower rates. My rate is 22% higher. All the customers of the hydro system know the rates have gone up, and a month or so from now when the new line-by-line billing comes in, they're going to know some more. All these customers are voters. If you guys try to perpetuate the idea that the so-called deregulation system gives you lower rates, you're in big trouble. Customers who are voters are going to remember when they get to the polls.

I've made my three points. Maybe I've taken a little more than five minutes. I'm ready for any questions you might have.

The Vice-Chair: That allows for a couple of minutes. We'll go to the opposition, the Liberals.

Mr Bryant: First, thank you for coming and for all you're doing. You've done your public service and yet you're back here for more. Thank you for that.

I have a question about the waffling over Hydro One, how the volatility with respect to electricity transmission may have an effect on the electricity generation market, adverse or otherwise. Can you talk about that at all?

Mr Frame: The transmission system in Ontario is a major network of cables on towers. The flows of electricity are very critical. Down in Clarkson you've got a control centre that tries to control those things. It's a very tricky process. I know just a little bit about it. The flows of electricity are very tough to control.

The transmission system probably needs improving. You need lines. I'm of this business directly for 10 years. I know that at one time the generation west of Toronto was far more than the demand and the generation east of

Toronto was under and you had to get more transmission in place to get proper flows.

One of the big mistakes I see is that some people at Hydro One right now are talking about expanding into the US and doing all the other things when you should be spending money on the transmission system in Ontario. When you do that, and keep your transmission system in good shape, you'll minimize your outages. When you minimize your outages, you keep companies working, plants don't have to shut down and you keep more jobs.

You should look after Ontario, number one, and forget about being a worldwide operation for Hydro One. It's bad stuff. The customers of Hydro One, the voters in Ontario, expect you're going to look after Hydro One's transmission system to give them the service they need: residential, commercial and industrial.

The CEO of one of your bigger customers, Dofasco—I think it's your biggest customer in Ontario—told you in an article a few weeks ago that he was very disturbed about what was going to happen with this change.

The Vice-Chair: Thank you very much, Mr Frame, for coming before the committee today. We appreciate your taking the time to come in.

Mr Frame: I've run out the clock?

The Vice-Chair: Yes.

Mr Frame: Thank you again for the chance to appear before you. I wish I had time for more questions because maybe you've got a couple more.

1700

REXDALE CITIZENS ASSOCIATION

The Vice-Chair: The Rexdale Citizens Association: please introduce yourself. You have 10 minutes. You can use the entire 10 minutes for your talk or you can allow time for questions.

Mr Max Murray: My name is Max Murray and I'm here to represent the more than 100,000 people who make up the citizens of the community of Rexdale. I am most honoured and saddened that I'm here before you on this day. I'm going to present some local stories and present you with some facts. I'm also aware that some of you may already know the details of the bill and the damage that privatizing Hydro One is going to do.

Here are three examples of what damage raised electricity rates will do to the businesses, tenants and citizens of Rexdale and this great province of Ontario.

I was talking to the property manager of an apartment complex and she pays close to \$20,000 a month for her electricity invoice. A rise in her invoice of only 20% will ultimately be passed on to her tenants, and with rents already being extremely high, you would possibly add to the problem of the homeless in Toronto.

The next example is of a plaza in Rexdale where a gentleman pays the common area and the vacant store electricity of between \$15,000 and \$20,000 a month. With what little he has left, thanks to our non-small-business-friendly government's policies, his tenants would be left paying two electricity bills: one for the bill

the landlord receives and one for the bill the tenant receives.

The third example is of a factory that pays an invoice of about \$25,000 a month. Now that they have higher rates, they will be left with no other choice but to cut costs and possibly lay off some people. That will hurt the economy and put more of a burden on our unemployment rolls.

Now that I have had a chance to open your eyes to the damage you will be doing by passing this bill, I will get to the details of the bill.

I'll start off by talking about the Energy Consumers' Bill of Rights. This would be pretty good if it dealt with the close to one million customers who signed with energy marketers prior to the enactment of this bill. As it stands, it's a case of closing the door after the horse has bolted. The other problem is whether the Ontario Energy Board will have the staff to monitor and enforce the bill of rights and whether they will seek large penalties for contraventions.

Finally, a lot of misleading information is given verbally at the door by commissioned salespersons, who have not been banned by this bill. It's hard to prove who said what to whom when only the consumer and the salesperson were there.

Having said all that, there is a lot in this package that could slow down marketers considerably. It applies to gas as well as electricity marketers. The most significant is the requirement that contracts must be confirmed in writing by consumers to be valid. This confirmation must come between the 14th and the 30th day following the signing.

Now a couple of points on the actual privatization of Hydro One. I just want to speak to the issue of what the government plans to do with the proceeds of the sale of 49% of Hydro One. Section 50.3 provides for all proceeds to go to the debt, "less any amount that the Minister of Finance considers advisable in connection with the acquisition of such securities, debt obligations or interest, including the amount of the purchase price, any obligations assumed and any other costs incurred by Her Majesty in right of Ontario." Costs incurred in disposing of securities etc would also be deducted.

This leaves the Minister of Finance with considerable discretion to grab a large proportion of the money raised through a sale or any other arrangement, such as the creation of a non-profit. Prior to the June 12 announcement, the government cited the \$4-billion government equity in Hydro One as the amount that would be deducted and put into general revenues. However, this section would appear to allow them to go beyond this, perhaps leaving less than \$1.5 billion, assuming a sale price of \$5.5 billion as previously mentioned, to pay down the Hydro debt. Recent activities have come forward that the full IPO is not going forward, so the \$5.5 billion may not apply.

Looking at yesterday's budget, that appears to be exactly what they have done. Page 57 of the budget includes \$2.5 billion for asset sales. The government has

admitted that this includes Hydro One and Ontario Power Generation assets, yet nowhere in the budget does this money get allocated to the stranded debt. Instead, the money is being used to balance a provincial budget that otherwise would not be balanced.

That appears to be it, so I'll take some questions now.

The Vice-Chair: Mr Hampton, you have three minutes.

Mr Hampton: Thanks very much for taking the time. I wanted to ask you, first, does it appear passing strange to you that, on the one hand, you'd hear the Minister of Energy say that the reason the government must sell Hydro One or sell a portion of Hydro One is to pay down the stranded debt, and yet when you see the official budget policy of the government, which was presented yesterday, nowhere does it show the money going to the stranded debt, not from page 1 of the budget to the last page of the budget? In fact, the Premier had to admit today that the proceeds of sale in fact are going to be included in the government's books. Doesn't it seem passing strange to you that the Minister of Energy would be so completely contradicted by the government's own budget document?

Mr Murray: I'm flabbergasted. I haven't got an explanation for it at all. It doesn't make any sense whatsoever.

Mr Hampton: The second question I wanted to ask you is, the second argument the government's made is that they said, "We have to sell off Hydro One or a portion of Hydro One so that the proceeds from the sale of shares or from whatever mechanism they choose can be reinvested in building up the transmission lines," yet I looked at the only privatization document we've had so far, the prospectus, and I looked high and low in that prospectus to see an investment strategy or an investment plan which detailed how the transmission system in Ontario would be repaired or improved. I couldn't find anything, but I saw a discussion of how more than \$1 billion would in fact be put into building transmission linkages with the United States so that more electricity could be exported to the United States.

Doesn't it strike you as passing strange that the Minister of Energy would be talking about how you need to sell off Hydro One so you can use the proceeds to fix up the transmission system in Ontario? Yet this document, this prospectus—and I'm told the people who produced the prospectus could go to jail for 10 years if they make a false or misleading statement—doesn't refer to any of those things the Minister of Energy has been saying.

1710

Mr Murray: Again, I don't understand it. You would think with them trying to privatize Ontario's largest corporation and asset, they'd be completely upfront and honest about it. I'm completely lost. It's just a whole bunch of talk yet again that everybody doesn't understand. When you ask straight upfront, you don't get proper answers. So I'm with you, sir. I have no idea.

The Vice-Chair: Did the government want to ask a question?

Mr Gilchrist: Very briefly. I would simply observe that unless they are a very major corporation that signed a special purchase agreement with Ontario Hydro directly—and I can't think of anyone in Rexdale who would fit that bill—not one of those people you claim to speak for is a Hydro One customer. So your scenario about the increase in charges by your local retailer would be appropriate if we were talking about Ontario Hydro services. That's your default. Every single person in Rexdale, unless they choose to sign a contract, is by default going to continue to be a Toronto Hydro customer.

But let me just pick up on something Mr Hampton was just asking you about. Obviously, if the province owes the debt, all the existing Hydro debt is guaranteed by the province. If you guaranteed a debt that your brother had and that debt gets paid off, do you disagree that that reduced your liabilities as well? Because that's what the budget said. Obviously, since we—you, the taxpayers—owe every penny of that Hydro debt that we inherited in 1995, if that gets paid off, the debt of the province is reduced. Do you not see that?

Mr Murray: In theory, I would agree, but ultimately I don't believe that actually is going to happen.

Mr Gilchrist: Well, I've got good news for you because the Provincial Auditor has already signed off on the process of dealing with any proceeds from any sale of assets, whether it's Hydro One or OPG or anything else. This isn't something the government has deemed the best way to do it in an accounting sense; the Provincial Auditor, the arm's-length individual who is the author of the definitive summary and audited statement of the provincial affairs, is the one who has come up with this framework. So I want to give you the comfort that, notwithstanding the suggestion that somehow this is cooking the books, it's just the opposite; it's living up to what the Provincial Auditor has told us to do in dealing with any proceeds.

The Vice-Chair: Thank you very much, Mr Murray. We're out of time. We appreciate your coming before the committee today and giving your talk.

ONTARIO FEDERATION OF LABOUR

The Vice-Chair: The Ontario Federation of Labour. Welcome to the committee. Could you please state your names? You have 10 minutes. You can either use the entire time or you can leave time for questions—whatever suits you.

Mr Wayne Samuelson: My name is Wayne Samuelson and I am president of the Ontario Federation of Labour. With me is Duncan MacDonald from our staff.

Let me begin by saying thank you very much for the opportunity to spend a few minutes with the committee. I should tell you that I look forward to these meetings that we get from time to time. I'm especially excited to know that there's a good chance the Chair is not going to storm out of the meeting halfway through my comments. So

I'm really pleased to be here. And I should tell you—not to your surprise, I'm sure—that it's very difficult to talk about this issue in 10 minutes. I should tell you that the Hydro file is rapidly becoming one of the biggest in my filing cabinets in the office.

On the way down here I thought about what I should talk about. I've been involved in public policy debates for 30 years. I've spent some time as a municipal politician. Although you may not believe this, I do understand that there may from time to time be differing points of view, and people may hold different views. Sometimes it's based on ideology; sometimes it's based on some practical experiences they have. While it's safe to say that I disagree with some people in this room, I do believe it's a cornerstone of our democracy that people have the ability to talk to their government and that their government has an opportunity to listen. I also believe that public power is one of the biggest public policy debates that I will face in my lifetime. I think there is growing support among the population to retain control of our power system. I can tell you that if you aren't hearing it, I'd be awfully surprised, but there clearly is a concern about the direction the government is going in.

The reality is that this is a huge issue for people. It affects them at home; it affects them at work. I think it should be part, at the very least, of a serious debate during an election. While I'm confident that it will be a major issue in the next election, I urge you to reconsider the path you're presently on. I urge you to open the door for some real debate.

I should tell you that the question that comes to me often is, if per chance—let's assume that in this case the government is wrong—they actually make a mistake, how do we deal with that? How do I deal with it, how do my children deal with it and how do the people I represent deal with it?

The role of a citizen is not only to participate in public hearings like this; it's also to be engaged in debates that affect them. I remember when I was a municipal politician somebody came and wanted to add a deck that was one inch beyond the property standards bylaw, and we had a public hearing. The government consulted me last week about speed bumps on the road in front of my house. I can't believe that we're going to move along, hold a few of these hearings in this building and a couple around the province, and the government is just going to plow ahead with this.

I mentioned that I was a municipal politician about 20 or 25 years ago. I can remember talking to people who wanted to bring businesses to my community and talking to anyone from outside the country about our trained workforce; I can remember talking about our health care system; and I can remember up front talking about power—reliable, at-cost power.

I want to appeal to the backbenchers who are here and to your colleagues to reflect seriously on this decision. Some people might say that the government made some changes in their philosophy in the budget yesterday. I guess that's a debate that will go on for a few weeks yet.

But this isn't even about politics, it isn't about partisanship; this is about a pretty fundamental and important component of all our lives. So I would again urge each and every one of you to seriously think about the varying viewpoints that are represented here in this room. Many people are passionate about this. They have put a lot of time into it. I think you should expand the debate. If you want to have a serious debate about the future of public power in the province, I'm sure there are lots of people who would want to have that debate. But I believe sincerely that there is strong opposition to selling off any portion of our present system.

Thank you very much for listening to me and for staying for all of my comments.

The Vice-Chair: Would you like to entertain questions?

Mr Samuelson: I'd love to. That's even more exciting than giving my presentation.

1720

Mr Bryant: Thank you for coming. I want to ask a broader question about a subject that we haven't spent a lot of time talking about yet in hearings but that you've touched on and spoken to quite eloquently. That is the problem with this bill: besides the disagreement with the government over what its future plans are with Hydro One, also how it's doing it. I can't imagine a municipal council which would delegate a decision of enormous importance to a city off to, say, the mayor's office. There's a great analogy on the municipal level. Can you imagine or can you think of another instance—I can't—where such an important decision is being delegated to the executive council, in this case? So instead of the executive bringing what is the future of Hydro One into the Legislature to permit MPPs to vote on it, in other words, the executive bringing the issue to the Legislature, instead it's backwards: the Legislature is giving the executive a blank cheque. Can you talk about your concerns on that front?

Mr Samuelson: I think it must be incredibly embarrassing to the government to find themselves in the courts being forced to be, in effect, democratic.

Having said that, I think it's the reach of this decision that makes it so different from any other decision I've ever seen by a government.

I can remember sitting there watching the TV screen going by one day on TVOntario, and there were public hearings up north for snowmobile trails. It's an important issue, I'm sure. But to think that somebody had to go to the courts to end up with these hearings, and to think that we could end up with—God knows what Chris Stockwell is going to come up with tomorrow in terms of his plans, but some kind of variance of what we see now, and then it will end up in the Legislature and, as you well know, closure seems to be a pretty regular tactic by the government. I just think this is too important. I'm trying not to be provocative in making my comments. I'm just trying to reflect what I think is a view that's held out there by a lot of people. While I guess I could say that ultimately the public will judge the seriousness with

which you take this issue, I think it's even too important for that. The government backbenchers have an opportunity here to really stand up for democracy.

Mr Hampton: As you say, this is such a fundamental issue, so important to the economy and to the society of this province, that it really requires broader debate and broader discussion. Who do you think is qualified, if anyone is qualified, to make a decision of this magnitude and of this importance?

Mr Samuelson: First of all, I'm not so sure this decision is the one the public should be making. I think there should be a broader debate about how we build a public power system that serves all of our needs. But I think I can say with a reasonable sense of being responsible that at the very, very least there should be a real debate among the public on a specific proposal in an election campaign.

Frankly, I think the government has a responsibility on this particular issue to go a step further and engage people in a debate about what public power should look like in this province. As we've seen in this debate, there are people with incredible backgrounds and experience who have views on this. I'm not only talking about the people who want to make a few million or billion bucks, or whatever it is, from selling shares and skimming profits off the transmission system; I'm talking about people who have worked in the sector, and we've heard some of them today. So let's have that debate; let's not get into the obviously partisan position we're in where the government has, it appears, made some commitments to people on Bay Street, and they're moving along this track of just ramming something through the Ontario Legislature. I think it's a huge mistake and I think it speaks directly to democracy.

The Vice-Chair: Does the government have a question?

Mr Gilchrist: Thank you very much. It's good to see you here again. I don't recall ever not listening to all of your presentation, so I'm sure you were making an allusion to someone else. I can't think of any of my colleagues who aren't fascinated with the point of view you bring to us at these hearings.

I've issued you challenges in the past and I'll do another one here again today. I'll stake my job permanently, if you'll stake yours, that my statistic, that we've held more hearings on more bills inside this building and outside than any government in the history of this province, is a fact. We agree with consultations, very much so.

I would suggest to you that a lot has changed in the 20 years since you cited how you used electricity as a marketing tool. It's perfect that you said 20 years ago, because it was 20 years ago that we saw a decade where rates went up 93%. So whatever you were able to tell companies in 1982, you were only half right in 1992, because the prices had effectively doubled and we lost that marketing advantage.

In your own report to us here you used the word "could."

The Vice-Chair: Question, Mr Gilchrist.

Mr Gilchrist: I'm getting to one.

Mr Samuelson: I'm sure you are and I can hardly wait. I'm hanging on the end of my seat here.

Mr Gilchrist: You used the word "could" a number of times, and yet in your oral presentation you made it sound as if we've got our minds made up here. The whole point of the hearings is to hear thoughtful suggestions or, quite frankly, to encourage people to use the other electronic means at their disposal, send an e-mail, send a fax, send snail mail. That's how governments receive input, not just by sitting around this table.

My question to you is, what part of the 1995 Common Sense Revolution, where we specifically alluded to electricity as one of the areas where the status quo wasn't working and that a search for a different model—including privatization if necessary, but not necessarily privatization—was offered up to the people, and in two elections in a row we've been handed a mandate to follow up on our promises?

Mr Samuelson: Give me a break, Mr Gilchrist.

Mr Gilchrist: Are you suggesting it wasn't in the Common Sense Revolution?

Mr Samuelson: Mr Chair, I'd love to answer this gentleman's question because I know he has asked it sincerely.

If you're going to try to convince anybody in this room, or anywhere, that there was a real debate in the

1995 election or the last election about selling off our public power, you'd have a hard sell, Mr Gilchrist, with all due respect.

Mr Gilchrist: So if you didn't ask the questions, it's our problem?

Mr Samuelson: I'm sorry?

Mr Gilchrist: If you didn't ask the questions when the Common Sense Revolution was offered 13 months before—

Mr Samuelson: If we didn't ask the questions? I can tell you, I've asked you more questions, and usually all I get is a rant.

Mr Gilchrist: Oh, look who's talking. I remember one presentation where 45 presenters offered the same submission.

Mr Samuelson: They were well thought out.

The Vice-Chair: Thank you for coming before the committee today, Mr Samuelson. We appreciate your coming in today.

Mr Samuelson: Thanks for hanging around.

The Vice-Chair: Is someone here from Stelco's Hilton Works? Is Peter Holt here?

I declare this committee adjourned until tomorrow at 3:30.

The committee adjourned at 1729.

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Mercredi 19 juin 2002

Standing committee on general government

Reliable Energy and Consumer
Protection Act, 2002

Comité permanent des affaires gouvernementales

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LEGISLATIVE ASSEMBLY OF ONTARIO

ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

STANDING COMMITTEE ON
GENERAL GOVERNMENTCOMITÉ PERMANENT DES
AFFAIRES GOUVERNEMENTALES

Wednesday 19 June 2002

Mercredi 19 juin 2002

*The committee met at 1600 in room 151.*RELIABLE ENERGY AND CONSUMER
PROTECTION ACT, 2002LOI DE 2002 SUR LA FIABILITÉ
DE L'ÉNERGIE ET LA PROTECTION
DES CONSOMMATEURS

Consideration of Bill 58, An Act to amend certain statutes in relation to the energy sector / Projet de loi 58, Loi modifiant certaines lois en ce qui concerne le secteur de l'énergie.

The Vice-Chair (Mr Norm Miller): I'd like to call the standing committee on general government to order. We're having public hearings into Bill 58, An Act to amend certain statutes in relation to the energy sector. I apologize for us being late, but we have to wait until orders of the day start in the Legislative Assembly, and they just started.

COMMUNICATIONS, ENERGY AND
PAPERWORKERS UNION OF CANADA

The Vice-Chair: Our first group is the Communications, Energy and Paperworkers Union of Canada. If you could please state your name. You have 10 minutes. You can use the entire 10 minutes or you may use part of it and then allow time for questions, whichever suits you. Welcome to the committee.

Mr Cecil Makowski: It's certainly a pleasure to be able to make a presentation here today on behalf of the Communications, Energy and Paperworkers Union. My name is Cecil Makowski and I'm the vice-president of the Ontario region. As I say, this is an important issue. It has captured the attention of Ontarians from Cornwall to Kenora.

On behalf of CEP's 50,000 members, I am here today to call on you to send this legislation back to Mr Stockwell to rethink. Ontario has endured months of mishaps and chaos over electricity policy and Hydro One. This legislation does not get it right. It worsens the chaos; it is rife with inconsistency and contradiction.

This legislation, of course, is the government's response to Justice Gans's ruling. However, in the period since Justice Gans's ruling, the government has reconsidered its intentions regarding Hydro One on several

occasions. The most recent declaration by the Premier that majority ownership of Hydro One will continue to be public has once again changed fundamentally the context of this legislation.

The essence of Justice Gans's ruling was that the government's proposed IPO for Hydro One was inconsistent with its mandate under the Electricity Act. I suggest to you that Bill 58 is inconsistent with the commitment of the Premier last week to maintain majority public ownership. This legislation gives authority to alienate all of the shares of Hydro One. Regardless of our differing visions on the future of Hydro One, surely we can find consensus on the need for a democratic process, one that's based on transparency, honesty and integrity. Bill 58 fails this test and must be rejected.

Every test of Ontario public opinion has shown a majority to be opposed to privatization of Hydro One. I want to emphasize to you that partial privatization is equally offensive and also contradictory and inconsistent with good government.

The government's current political balloon on Hydro One has floated three ideas for partial privatization: a strategic partnership, an income trust and an IPO of up to 49%. Clearly, any and all of these options would alter Hydro One in a fundamental manner: the introduction of private investment would contradict the public interest mandate that must continue to be at the core of Hydro One's business strategies and operations. This would be tantamount to maintaining ownership while privatizing the purpose and mandate of Hydro One. What strategic partner, trust unit holder, or investor/shareholder would be prepared to have Hydro One and this province's energy system used as a socio-economic lever to save jobs or to help struggling industries?

As we told Mr Stockwell during his so-called consultations, privatizing Hydro One is destabilizing to basic industry. It will be a job killer. It will eliminate one of the most important tools that government has to save jobs. Let me highlight this point—a crucial issue which has not been discussed with the people of Ontario.

If you were to look through the records at Ontario Hydro, you would find many occasions on which particular arrangements were made with struggling Ontario companies to assist in avoiding bankruptcy or to assist them in restructuring to take them out of bankruptcy. This was done in the public interest. Thousands of jobs and the communities that depend on them would not have been sustained had there been no latitude to make these

arrangements. It goes without saying that private investors who own Hydro One, or its generating facilities, will have no interest in saving jobs in Sault Ste Marie, Thunder Bay or Kapuskasing. I ask you to tell us, and the people of Ontario, why our government would give away one of the key economic levers it has to save jobs and to help communities.

We can and must ask very similar questions when it comes to environmental policy. Electricity policy is entirely bound up with environmental goals, particularly with the need to reduce greenhouse gases. For example, Ontario's coal-fired electrical generation capacity presently operates at 30% to 50%. As a province, we choose not to burn more coal because of the consequences for air quality and greenhouse gases. However, Hydro One's previous board of directors was actively pursuing a strategy of increasing interconnection capacity, requiring increased generation that would inevitably demand increased capacity from coal-fired generators. The promotion of coal-fired electricity generation for export to US markets may well be profitable and in the interests of investors. However, it is not in the public interest and should not be promoted by Hydro One. Ontarians will not and should not accept a policy of dirty electricity for power-hungry Americans.

In the months since Premier Harris shocked Ontarians with his precipitate announcement that Hydro One would be privatized without a public process or mandate, we have had the opportunity to explore deeply the underlying assumptions that were driving this proposal. Allow me to briefly address the two most important of these assumptions.

While Bill 58 directs that the income from private investment will be directed to the debt, it will not generate capital for upgrading the Hydro One infrastructure. Private investment will, in fact, make the cost of new capital more expensive for Hydro One. No private investor can achieve the low interest rates available to the province of Ontario. Private investment will put at risk Hydro One's tax-free status, thereby imposing a significant new layer of cost on electricity in Ontario.

It is important that the government be clear with the people of Ontario about the income that would be generated from private investment in Hydro One. Will all the money raised be used for debt reduction, or only the profit over and above the book value of the shares held by the government? What's the real purpose for raising private capital: to reduce debt, to generate a large windfall for government revenues like a political slush fund, or will it be used to finance the budget?

We must remind ourselves that this government found it necessary to remove the board of directors in order to prevent the largesse that Ms Clitheroe and her privatizing board heaped on themselves. Evidently, it's not private sector discipline but public sector ethics and standards that Hydro One is short of. If private sector discipline is about making profit-and-loss business decisions, why then is it necessary to include in Bill 58 a directive that non-grid generating facilities and transmission systems

will continue to be operated? Could it be that even Mr Stockwell has limits on how much private sector discipline he wants?

We're particularly concerned over the notion that an income trust would be established to divert revenue from Hydro One to investors. Last year, Hydro One earned \$641 million in profit after meeting all debt payments. We find it very difficult to conceive of any private investment that would be worth sacrificing this revenue.

It is speculated that the most likely partner in an income trust would be a public sector pension plan. We must warn this government in the strongest terms that the politicization of these pension plans is extremely dangerous for the plans, the members and for the very idea of a non-partisan civil service. Do not use public sector pensions as political pawns in an ideological game.

In this context, what is the good purpose of Bill 58 that we're here to talk about? We suggest to you that the government of Ontario has implicitly recognized public opinion through the Premier's declaration that majority public ownership will be maintained. But this legislation was drafted by Minister Stockwell to facilitate the full privatization of Hydro One.

There are many unanswered questions about the government's intentions. Will this bill be used to facilitate the sale of remaining generating facilities? Is Bill 58 a Trojan Horse that would set up a partial sale of Hydro One, with the sale of the rest of the assets at a later date? We're reminded of Air Canada. It started out exactly the same way.

There's a new board of directors at Hydro One, appointed after the drafting of this legislation. The new board of directors has the unenviable task of restoring some measure of public trust in Hydro One. They must review all plans for Hydro One and consult with Ontarians over a legitimate and credible business plan. This cannot be done when government proceeds with political legislation like Bill 58.

I want to suggest to you that there is a better option for Ontario than Bill 58. We appeal to you to have this legislation withdrawn, hoisted or simply left behind. Instead, a genuine stakeholder process should be commenced, possibly facilitated by the interim board of Hydro One. That stakeholder process could attempt to achieve a consensus on the future of Hydro One based on public ownership and the public interest. CEP would be a constructive participant in such a process, and I believe that many others who have been involved in this issue would also positively engage.

That is my presentation. I want to also advise you that we think that the time limits set out for these presentations are extremely restrictive. We could have gone on at length and articulated a large number of points that we failed to have the time to speak to. We would hope that in the future a greater length of time can be allocated for each presentation. Again, that's my presentation.

The Vice-Chair: Thank you. That allows time for a question from the official opposition.

Mr Sean G. Conway (Renfrew-Nipissing-Pembroke): Very briefly, there are two big businesses at Hydro One,

basically. There's the highway and then there's the distribution business. Have you any views on how we should proceed with a more customer-sensitive rationalization of the distribution part of Hydro One, given the fact that in the last couple of years the management of Hydro One has gone out and done exactly what it was told not to do by a number of people, namely, buy up a lot of publicly owned local utilities—publicly owned, I might add, but locally focused—and in so doing, appears to have really frustrated a more orderly distribution network?

1610

Mr Makowski: It's difficult to put the genie back in the bottle. I might simply say this about your comment: that Hydro One and Hydro before had gone around buying up a number of locally owned distribution networks. People in many communities are taken aback that the sale of those facilities and those networks to Hydro was made on the basis that they were going to be maintained in public ownership. To now see that their former locally controlled and owned distribution systems are going to be potentially privatized and may be controlled by foreign ownership is difficult for them to swallow.

Mr Conway: Let's just assume public ownership. Thinking about customer service, there's a real problem for a growing number of people because it's now a completely fragmented service delivery operation in many parts of the province. A lot of customers who accept your advice around public ownership are mad as hell about a mess that's getting worse, not better. Have you any advice, with the customer in mind and accepting public ownership, how we can have the kind of restructuring of the distribution part of the business that makes sense for residential and industrial customers who lately are beginning to really wonder if anybody cares about the customer on the service side?

Mr Makowski: There are models that rely on advisory boards in communities to establish the priorities for the distribution networks. That's something that could be looked at. Obviously local control over that utility is extremely important, and having it evaporate basically as a result of a misguided policy is concerning a lot of folks in a lot of communities.

The Vice-Chair: Thank you very much, Mr Makowski, for coming before the committee today. We appreciate your coming in.

ONTARIO ENERGY ASSOCIATION

The Vice-Chair: Is there a representative of the Ontario Energy Association here? If you could please state your names. You have 10 minutes to use for your talk or you can leave time for questions, whichever suits you.

Mr Bernard Jones: Mr Chairman and committee members, I'm Bernard Jones, president and CEO of the Ontario Energy Association, or OEA. With me is Peter Budd, chair of Power Budd LLP and also chair of the association.

On behalf of our membership we are pleased to have this opportunity to make this submission on Bill 58. The OEA is a broadly based energy association, uniquely representing both natural gas and electricity interests. We have more than 100 corporate members serving Ontario in utility transmission and distribution, energy production and supply, energy marketing, manufacturing, contracting and supply, and consulting. I'd now ask Mr Budd to relate to you our views on Bill 58, after which we will be pleased to answer questions.

Mr Peter Budd: It's a pleasure to appear before you. We hope our association will be helpful in our views.

First of all, we believe Bill 58 is intended to open the way for prudent private sector solutions for the disposition of electricity system assets and enhanced consumer protection. To be abundantly clear about it, we believe that in a mature electricity utility infrastructure and system, governments don't need to own it, but they do need to regulate certain parts of it very carefully.

That said, you will also note from our past that the OEA has supported the government's goal of bringing that increased discipline to Hydro One through private sector structures. Indeed, we supported the IPO option over other options, for reasons which the committee may know.

We recognize that Bill 58 must allow for other potential options. We're certainly prepared to accept that, but hopefully they'll move in the appropriate direction. We stand ready to provide to the government and others assistance in respect of guidance as to whatever it decides will be the best option for a competitive electricity market and ultimately the paydown of stranded debt.

Other measures in this bill relating to the use of transmission corridors and water and dam management are indeed additional positive steps.

The OEA supports those aspects of the bill as well which are aimed at unfair marketing practices and false advertising. We should be clear. Nobody sitting here or anywhere enjoys those kinds of problems. They should be overcome, and indeed those aspects of the bill will help to build and restore public confidence in a competitive market and hopefully help us move toward better competitive choices for customers in Ontario.

Notwithstanding all of those positives, I have to advise you that if the legislation proceeds with undue haste and without due consultation—this is a concern the OEA has—with stakeholders, it's my belief as a former member of the Market Design Committee and now chair of the Ontario Energy Association that the retail energy market in Ontario could indeed, as our submission states, shrivel up and die. That's a serious concern for not only myself, who has spent six years working on getting a market up and running, but the association as a whole. We're fresh off a board meeting yesterday to bring you these views. We believe Ontario would be ill-served by such a development. The end result, if marketers don't want to participate in Ontario and we don't have competition, could be higher energy prices and lower private investment in the province—not something particularly welcome.

Certainty with respect to government policy direction and consistency of the regulatory framework will continue to be important factors for any long-term investment to occur in the electricity sector, which we might note opened well on May 1 and has been largely under the radar screen, to the credit of everybody in the room.

Bill 58 will call into serious question the government's commitment to a restructured electricity industry and the desirability of new private sector investment in a competitive marketplace unless we get it right. I think there are opportunities for us to get it right, but we've got to be very careful about how we're going about doing this, because all eyes outside of Ontario are watching us very closely, with a freshly opened market which apparently has gone well but with a couple of disruptions over the last few weeks, which in my view are not going very well at all.

I'd like to leave you, if I could, with two specific concerns if you take any note of these matters that we'd like you to really consider closely, and they are in this bill the extension of the cooling-off period and, secondly, the customer reaffirmation requirements in the bill. In our opinion, if those two are enacted, they will provide or add unnecessary costs and uncertainty for both the consumers, who will have made up their minds on what it is they chose to do within a 10-day cooling-off period, as I understand it currently, and very much uncertainty for energy retailers, all of which will result in the detriment of competition.

We've watched this in the gas business for a number of years. Now we've got a freshly opened electricity sector and we're seeing this bill get far too intrusive in these areas. They will complicate and introduce undue energy supply management risk—real risk, in my professional opinion—for retailers, no question; substantial additional red tape and cost; and customer confusion. That increased cost should just be unacceptable because ultimately it leads our Ontario consumers to have to pay higher retail prices when energy companies have to go out and hedge for this extended cooling-off period during periods of market movement and price volatility. That's what markets are about. We have to be extremely careful on those two points.

Recently—if we ask you to back off those things—you will note that the government gave the Ontario Energy Board broad new powers to impose harsh financial penalties against market participants engaging in inappropriate behaviour. Those powers are now in place and the board is using those powers with effect. We're confident that continued diligence and further swift and decisive board action where that is warranted will promote the additional significant and positive change that is needed, but not this kind of intrusive development in at least these two areas that we've pointed out.

Moreover, I think it's fair to say, from an observation of the players who are out there now active in the retail market, that their quality is much higher than it was previously. There are significant big business players in

Ontario now working in the market or community. They are also appropriate for developing new standards for the accreditation of sales agents.

So there are other ways available to handle these things, and we think that there are different ways that could be reflected. The bottom line on this one is that progressive change is already well underway.

We believe the industry, the government and the OEB must continue to work together, as they have for a number of years, to address outstanding concerns around consumer protection and business practices. We think we can meet these shared goals without unwarranted legislation and regulation, but I caution you all, everybody on all sides of the House, that it's important that rules not be so onerous as to stifle competition and cause this retail market to fail, which is a prime concern I have. We stand ready as an association to assist the government and the Legislature in fixing these problems and meeting the goals.

But if the government decides to proceed with third reading of Bill 58, then we strongly recommend that the cooling-off period extension that I referred to and the reaffirmation sections—going back and asking for a second written wet signature, which just isn't done in any other business that I'm aware of—not be proclaimed until the strong measures already undertaken, that I've discussed about the OEB and in codes and so forth, are given sufficient time to prove themselves, to take care of any inappropriate market activities, and there have been some. The OEA is confident that with firm regulation we can fix these problems.

A couple of other observations, if I could just skip down and leave time for a question or two, if you have any.

First, later this week your committee is going to be hearing from others in the marketer community. We urge you to pay attention to what they have to say and ask them some tough questions about what their proposals are. They've given this a great deal of consideration and we're confident they can be helpful to you.

The second critical point I'd like to conclude with is, leave the details of these kinds of things, the minutiae—important minutiae—to a stakeholdering process. The government was confident, and I think it reaped the rewards, by turning over the details of market design to a Market Design Committee that it appointed, and they gave it a year to deal with that. Nobody's suggesting this takes a year, but that MDC produced four quarterly reports. That stakeholdering process was highly effective and it worked. We think you can have confidence when you ask Ontario stakeholders in the energy community to come together and make it work. You certainly have our support and you'll find that with others. So take that time and don't rush details, because the smallest details in the energy marketplace can kill it.

Thirdly, a point that I think sometimes gets overlooked: people look at Ontario from the outside and from the inside and wonder what kind of business environment we're creating. A lot of companies have come from afar

to invest in Ontario. They've spent tens of millions of dollars coming here because they had the confidence we were going to open a market successfully, stick to our guns and make it happen.

We've done well in the province, and we're proud of it. Around the world we're the only market that has successfully opened a wholesale and retail market simultaneously. It has never been done before. Let's be careful.

Those companies have invested all of that money with the confidence that this market can work. If we bring on rushed legislation without appropriate stakeholdering, in my respectful submission to each and every one of you, we're putting this whole market and the retail sector—and it could penetrate back to the wholesale sector—at some great risk.

Let's not let it fail. Let's support it. Let's keep on with the stakeholdering the way it has been done in the past and hope we can make this market go smoothly for the next number of years. Thank you.

The Vice-Chair: Thank you. We have time for one quick question from the third party.

Mr Peter Kormos (Niagara Centre): Mr Bryant has a question.

The Vice-Chair: Mr Bryant, OK. One quick question and then we're going to have to recess to go vote.

Mr Michael Bryant (St Paul's): Thank you for coming. A quick question: you made reference to disruptions recently that I guess have had an adverse effect. Could you expand on that a bit? What disruptions?

Mr Budd: I think the investment community and the energy marketplace and industry generally were very concerned about the disruptions caused by what had gone on with Hydro One. I'm hopeful there's now more certainty, but that period of time that we just came through was a difficult period as people wondered what the future would be of that electric utility.

Mr Bryant: So what's happened with respect to what the government's done on transmission you're saying is having an effect on the retail and wholesale market—a negative impact?

Mr Budd: I think the government needs to be very careful about how it puts these proposals forward. My association is suggesting that they adopt a very consistent approach to it and stay the course they've been on.

The Vice-Chair: Thank you for coming before the committee today. We have a vote that we have to do, so we'll take a recess for what will likely end up being 15 minutes, I would suggest, and reconvene after the vote.

The committee recessed from 1624 to 1636.

ROY BRADY

The Vice-Chair: I call this committee back to order. Is Roy Brady here?

Mr Kormos: On a point of order, Chair: Since the government has set the bells ringing again for another vote, they don't have much interest in this committee proceeding, do they?

The Vice-Chair: That's not a point of order.

Is Roy Brady here, please? Welcome to the committee, Mr Brady. You have 10 minutes. You can use the whole 10 minutes or if you want to allow any time for questions, feel free as well.

Mr Roy Brady: Thank you, Mr Miller and members of the committee, for inviting me and giving me the opportunity to speak today. I left four copies with Anne Stokes. Gary, I left one at the portable mailbox at the back of Queen's Park for yourself.

My name is Roy Brady. I'm from Peterborough. Like everyone, I'm a citizen and a taxpayer. I basically took electric power for granted for most of my life. It was four years ago, when the Electricity Act was passed, that I became very interested in this topic because of local meetings as to what to do with the local Peterborough utility. From there, I began to study, as some members of Peterborough have done, and became very alarmed in December—just before Christmas—when Mike Harris made his two announcements regarding transmission and generation. There's been quite a bit of interest in Peterborough and in myself, and that is the reason why I am here.

I don't agree that the enabling legislation in Bill 58 is a real mandate for the government to privatize any of Hydro One. It is just an attempt to circumvent an Ontario court ruling. However, I shall argue that if the government does act as if it has that mandate, their policy is folly and an act of unaccountability to the entire population of Ontario.

Public control should be 100% ownership by the population of Ontario. Schemes of part-privatization do not tell the population what the government intends and would not encourage investors to invest capital that is deemed to be so necessary. In short, it won't work.

A few points on that: Hydro One, the transmission sector, is working. The past two years there has been an annual cash flow of \$640 million to \$750 million, non-profit and available for reinvestment. The actual Hydro One portion of the Ontario Hydro debt is approximately \$4.84 billion, considered low for an essential public utility service. It's been the nuclear-driven generation sector that holds most of the debt. Also, the \$5 billion or \$5.5 billion price tag grossly undervalues the total assets.

Secondly, investors, even if ownership is less than 50%, need a secure return. To get that return, there are two choices: seek higher returns or reduce costs or both. For a higher return, consumer rates must increase, particularly if investment has been forecast—not necessarily promised, but forecast. To reduce costs, investment in infrastructure will be stalled. Remember that government can borrow at a lower rate of interest than the private sector. Also, the private partner or partners involved are unlikely to invest heavily when political considerations affecting the government of the day might intervene. That's a reality when over 50% is publicly owned.

Thirdly, one way for Hydro One to increase profits, unfortunately, could arise from what are called transmission bottlenecks. These are similar to the supply gaming schemes that we witnessed in California. We

need full public control to guard against that kind of corporate treachery.

Fourthly, an income trust, as mentioned earlier today, has been suggested whereby the province retains ownership of the assets but sells investors an interest in the profits earned. Unfortunately, private investment would not be encouraged under this scheme. Any risks involved would be entirely in public hands, with, at the same time, a reduced share of the profits to be earned.

A solution for the government of Ontario: you manage the service essential to industry and all ratepayers. You've always bragged about what great economic managers you are, how you've striven to keep public services, such as education and health care, accountable. Hydro One investment has been ongoing, using our money. That will continue under your management. Then clean up any mess at the top. Do your job. The private sector can hardly be looking forward to such an added public responsibility, and in fact wouldn't do it. Make a business plan and show it to the population of Ontario at least, so that there's some trust in your government from the people.

If the government did go ahead with part or whole privatization, then what? Any private investment would go toward building cables and lines to the United States where the market and price are higher. It would not be smart economics to invest in Ontario where the return is lower. Hydro One has already applied to lay cable under Lake Erie to the United States. That goal has been clearly outlined in the last Hydro One prospectus. The public sector, if it chose, could undertake similar investment but escape the binding clauses in the North American free trade agreement—which I will call NAFTA—regarding proportionality, price equivalence and binding export guarantees. At the same time, other costs must be reduced; therefore, there will be less investment capacity for Ontario. It is foolhardy to think that private investment would patriotically be provided in Ontario when higher returns are available in the United States.

As I have said, NAFTA provisions do not apply if Hydro One remains public. I have some further concerns, though, and you may not have considered these. If a significant part of Hydro One is sold to an American corporation or corporations, could NAFTA somehow still click in? Is 49% substantially the same as 50% because of the corporate investment already made? Unfortunately, an unelected trade tribunal might be asked to decide. Would government still be permitted to legislate and regulate grid capacity, stability, performance and domestic content? Back home, the question is, what will happen after the next election? Will there be another Mike Harris-style announcement of 51% or 100%? Real concerns. I think you gather that I'm quite worried.

The Ontario Energy Board is supposed to protect us. I won't hold my breath. The enforcement powers of this board are uncertain, particularly as we have observed how toothless and tardy it was in dealing with fraudulent energy retailers. When Hydro One, when it is heavily privatized, makes constant applications for rate increases because of their investment claims—probably toward the

US market—and the need for larger shareholder profit, will the board justifiably say no? When NAFTA has clicked in, or corporations threaten to use it anyway—and I hope I'm wrong in this—I am alleging that the existence of such a board could be challenged at a chapter XI trade tribunal as an unnecessary barrier to export trade or as a subsidy to help domestic ratepayers.

Often forgotten are the 88 municipal utility sales to Hydro One, allowed and encouraged by the government. Citizens thought they were selling to a publicly owned corporation. Instead, they will realize they have been deceived into being delivered to at least a partly privatized corporation.

The disturbing question is, who profits from the sale of Hydro One? It is not the people of Ontario, who now own a great asset whose debt is \$4.84 billion. That's low for a large public utility, and there seems to be no alarm from the financial community about that particular debt. Unfortunately, the beneficiaries would be financial corporations and advisers, corporate lawyers, large corporations which can afford such large purchases, Tory supporters who will get positions, lobbyists and officials working at the Premier's office and perhaps at the Ministry of Energy, and perhaps defeated Tory incumbents at the next election. Despite not being recommended for privatization until last December, only a Mike Harris pronouncement put the Hydro One sale on the table. Who's he? He is hardly accountable to the people of Ontario.

In conclusion, a plea to the government of Ontario: what are you doing to this province? What are you doing to the population of Ontario? A substantial majority opposes the sale of Hydro One. Only an unaccountable provincial government would proceed regardless.

Your own supporters are in disarray at this moment. They have clearly awakened and studied this issue and, though desperately trying to remain Tory sympathizers, disagree with you and want Hydro One in public hands. Are you going to split your own party? Are you intending to place ultimate control over party policy in the hands of the Premier's office, which is lobbied successfully by lawyers, accountants, underwriters and corporations, but ignoring your own electoral supporters?

Drop Bill 58. Keep 100% public control of Hydro One. Please let the people of Ontario enjoy the long-awaited summer holidays without constantly having to look over their shoulders wondering just how they might get shafted. Thank you for your attention. I look forward to feedback and questions.

The Vice-Chair: Thank you very much, Mr Brady. You've used up your time. We appreciate your coming in today to speak to us. Thank you.

Ms Churley: I had a good question for you.

Mr Brady: Did you? Thank you.

TORONTO BOARD OF TRADE

The Vice-Chair: Is there a representative here from the Toronto Board of Trade? Welcome. If you could state your names. You have 10 minutes to use as you please.

You can use it all for your talk or you can allow time for questions.

Ms Elyse Allan: I appreciate there's a voting call, so we'll keep moving.

Good afternoon. My name is Elyse Allan. I'm the president and chief executive officer of the Toronto Board of Trade. With me today is a great volunteer, Jan Carr, who is the chair of our board's electricity task force, and also with me—this is not Louise Verity—is Norm Tulsiani, who is a policy adviser with the board and works with that volunteer committee.

Just for the record as well, the Toronto Board of Trade represents over 9,000 members. The majority of those members, over 60% to 70%, are small business members and mid-sized business members who are in fact consumers of energy in Ontario.

Thank you for the opportunity to make this presentation on behalf of our membership. We are pleased to be here today, representing our business community and our membership, to support Bill 58 and also to offer some recommendations on this bill. The Toronto Board of Trade, as I said, represents all sizes of businesses, with over 70% being small business and mid-size.

As you know, the Toronto Board of Trade has taken a very active interest in your government's initiative to reform and reorganize Ontario's electricity sector since the release of the Macdonald report in 1996. The board has been a strong and consistent supporter of the opening of Ontario's electricity market to competition.

During the Ministry of Environment and Energy consultations on the privatization of Hydro One last month, the board reaffirmed its support for privatization but urged the government to take steps to ensure the continued availability of hydro corridor lands for public transit and other public uses. We understand that the government introduced Bill 58 partly in response to concerns regarding the continued availability of the hydro corridor lands for public use.

The proposed legislation maintains public access to the hydro corridor lands while confirming that transmission is the primary use of such lands. We support provisions in Bill 58 that will transfer title to the hydro corridor lands to the province and will give Hydro One an easement for its transmission lines. We would like to thank the government for taking decisive action on this issue. As you know, Ontario's urban areas are facing mounting traffic congestion problems. According to a report released by the board last summer, the cost of congestion to business could reach \$3 billion annually. That would be 1.3% of regional GDP by 2021. Clearly, this is a significant problem and we need to maintain flexibility to ensure we have the ability to manage.

We also support provisions in Bill 58 which enhance environmental protection by introducing a system to track the primary energy sources used in generating electricity.

A significant feature of Bill 58 is the Energy Consumers' Bill of Rights set out in part V.1. The board supports consumer protection and would like to offer some suggestions for improving this part of the bill.

This section is one of the key sections of the bill and we must get it right. The consumer protection provisions must be balanced and offer energy consumers adequate protection while at the same time allowing electricity and gas retailers to market their services in a commercially reasonable manner. We believe certain provisions in the part do not achieve this balance.

For instance, subsection 88.9(1) of the bill provides for a 30-day cooling-off period after a consumer has signed a contract and requires the consumer to take positive steps to reaffirm that contract. This reaffirmation can only be given after 14 days. Under this rather onerous provision, a consumer would not even be allowed to reaffirm the contract after a week. Rather, the consumer must wait an additional week before reaffirming. We believe this requirement would be extremely cumbersome and intrusive for both consumers and retailers.

We also note that this provision is inconsistent with general consumer protection standards. Consumer protection standards generally provide that a contract becomes legally binding unless the consumer cancels it within a stipulated period of time, which is usually 10 days.

The choice facing consumers in purchasing an electricity or natural gas supply is quite similar in principle to the choices when arranging a mortgage. The consumer may opt for either a lower-cost but more volatile floating-rate mortgage or a higher-cost guaranteed-rate mortgage. Despite the fact that arranging a mortgage is a much more important and onerous decision for a consumer than arranging the supply of electricity or natural gas, mortgage consumers do not have a 30-day cooling-off period and there is no requirement to reaffirm the mortgage contract.

We appreciate that the government must respond to the reality that some consumers feel apprehensive about arranging for their electricity supply in the recently opened market. For this reason, we believe the bill could retain a cooling-off period but we recommend that the bill be amended to remove the requirement on the part of the consumer to take positive reaffirmative steps. We also believe that in the longer term, once consumers are more familiar with the workings of a competitive electricity market, the cooling-off period should be reduced from 30 days to 10 days, which is consistent with general consumer protection standards.

We understand that Bill 58 has been introduced to provide consumer protection in the context of a newly opened competitive electricity market. The existing provisions in the legislation are based on limited experience and may prove to be unnecessarily restrictive and complex in the longer term. For this reason, we believe the legislation must be flexible enough to respond to changing circumstances as the marketplace matures and the initial wave of transitional issues has been resolved. One way of ensuring flexibility would be to set out certain details in regulations rather than in the legislation.

Thank you. If there's time, we would be pleased to address your questions.

The Vice-Chair: It's the government's turn to ask questions.

Mr R. Gary Stewart (Peterborough): Thank you for your presentation. It was an interesting one. It's interesting to note that you represent 9,000 small businesses.

Being a small business person—or I was a small business person—any additional costs and any threat of additional costs are a major concern. Yesterday we had people here saying that the cost of electricity was going up 400% and 500%, with not a great deal of backup to it. In fact, last night I thought I'd better go home and get my coal-oil lamps out just to be protected. I don't mean that facetiously, but that type of talk and conduct, with no backup, is foolishness. It's interesting that your 9,000 members would support this type of action if they ever had the slightest idea that that would be the type of increase. Has there been much comment on that within your organization?

Ms Allan: I'll comment, and Jan may want to comment as well. I think since the beginning, generally, we've been very supportive of an open market and what an open market in electricity will bring, and that's reflective of our membership. Our general sense has been that the situation in Ontario is very different than the situation in other jurisdictions. As a result, we expect there would be a very successful future with an open market in electricity.

Mr Jan Carr: I can't really add anything more to that, other than to underline the fact that the board's position with regard to electricity policy in the province is not something that has happened in the last week or two. It has been, as Elyse has said, actively involved with a standing volunteer committee for a number of years. One of the things we have done is made every effort to communicate with our members and make sure there was an understanding of it. I think some of the rather startling stories you mentioned about massive price increases are based, in many cases, on incorrect information or a misunderstanding of correct information, one or the other.

Mr Stewart: It's interesting to note that when this all started there was the possibility of a 100% sale of Hydro One. Now there is some indication that it may be somewhat less but still holding control. Of course, we're hearing that won't work. On the other hand, I would suggest that probably a good number of your membership has been involved with circumstances where they have sold a portion of their companies and retained control to get the necessary infusion of capital they may need, which could very easily be the situation here because of the transmission lines that have to be upgraded etc. Do you agree, though, that if some type of sale was initiated with control still in the hands of Ontarians, it might work?

Ms Allan: We've been generally very supportive of privatization. Privatization is a full spectrum and that can mean many different arrangements around that. I think the advantages of ensuring we have access to the technical skill, the capital and the benefits that a private market brings is something we have continued to support.

The Vice-Chair: Mr Bryant has indicated he'd like to ask a question.

Mr Bryant: Yes. Just a quick question. One concern is that the change of position from IPO to no IPO to perhaps income trust and so on at the same time as the retail market and the wholesale market are underway has created some volatility. I'm just wondering if the board is at all concerned that it's all happening at once, not the retail and the wholesale but that at the same time as the transmission reforms are underway, which really weren't a part of the Macdonald report. Do you have any concerns about volatility and what your recommendations to the government might be in terms of trying to limit that volatility?

Ms Allan: I'll make a general comment and pass it on to Jan. Generally when you have a plan laid out, the smooth implementation of that plan from a business perspective is better because businesses like certainty. When there's a plan laid out, they like to see that plan put forward.

Our comment would be that there has been a lot of recent volatility, and the sooner we get that plan laid out and moving forward again, the better it will be for ensuring, as one of the previous people mentioned, that we have certainty back in the market so that the people who have invested take comfort and stay involved and engaged in that market.

Mr Carr: I wouldn't do anything more than just simply underline Elyse's comment. The major concern is a lack of certainty. This is an enormous industry in the province. It is an essential service and it deserves the finest of planning. A lot of effort went in by stakeholders, government, professional consultants, legal opinion and so on in designing the market, in designing the restructuring process, in putting the original legislation in place and the various rules and regulations that are wrapped around that.

As was mentioned in one of the previous presentations, the opening of the market went extremely smoothly, and that's a credit to all involved. That is the result of good planning. It is a pity that that might be compromised due to lack of planning. As Elyse says, the most sensitive element to that is investment. Investors do not like uncertainty.

The Vice-Chair: Thank you very much for coming before the committee today. Unfortunately we have to recess for the vote. We'll be back in 10 minutes or as soon after the vote as possible.

The committee recessed from 1701 to 1714.

PENINSULA WEST UTILITIES

The Vice-Chair: If we could reconvene. Is there a representative from Peninsula West Utilities Ltd? Welcome to the committee. If you could please state your names. You have 10 minutes to use as you please. You can speak the whole time, or you may allow time for questions, whichever suits you. Welcome.

Mr Brian Walker: Thank you, Mr Miller and members of the committee. My name is Brian Walker. I'm

currently serving my second term as chair of Peninsula West Utilities Ltd. I'm also serving my ninth term as a councillor for the town of Pelham. I was a former chair of the Pelham Hydroelectric Commission before amalgamation into Pen West.

With me today is John Alton, the president of Pen West Utilities Ltd, who started in the electrical utility industry in 1969. He's been an active industry committee participant during the whole restructuring process.

Our presentation today is going to focus on perhaps a little bit different solution to the revenue requirements of Hydro One. Also, we're going to look at consumer protection from a little bit different aspect as well.

Peninsula West Utilities Ltd was created in October of 2000 when the hydroelectric commissions of Lincoln, Pelham and West Lincoln were amalgamated under provisions of the Energy Competition Act, 1998—Bill 35. Prior to the passage of Bill 35, there were 10 municipal electric utilities, one private utility and the provincial utility, which was the self-professed retailer of last resort within the regional municipality of Niagara.

Now there are six municipal utilities left after amalgamations and divestitures. Hydro One purchased Thorold Hydro, and Canadian Niagara Power has leased Port Colborne Hydro. In the regional municipality of Niagara there are approximately 175,000 distribution customers served by eight different distribution companies. Hydro One's customer base would form about 9% of that total number.

With the introduction of the Reliable Energy and Consumer Protection Act, Bill 58, there is an opportunity for the government to promote the rationalization of the distribution companies in Niagara by transferring control and management of the Hydro One distribution assets to Pen West.

Pen West is proposing that the Ministry of Energy enter into a long-term lease-to-purchase agreement for these distribution assets. The agreement could provide the government with a revenue stream to help pay down the stranded debt, while at the same time provide for the necessary capital infrastructure investment to improve the reliability for the benefit of the customers.

The Hydro One assets we're talking about are contiguous to Pen West's service territory and are located in the township of Wainfleet, the town of Pelham and the city of Thorold. Currently, Hydro One and Pen West service vehicles drive through each other's service territories to service their customers. Customers in the rural part of the town of which I am a member of council are particularly frustrated by having two service providers with different rates, service policies and response times, while at the same time being under the municipal control of the town of Pelham.

With the reintroduction of transfer tax relief in Bill 58, for a period of 18 months the government could further enhance rationalization of distribution assets, as more distributors would amalgamate.

Pen West is actively involved in discussions with neighbouring utilities to amalgamate in order to effec-

tively meet all the new responsibilities and requirements of deregulation. We would move very quickly to merge if the transfer tax were lifted for a period of time, which would increase our productivity and reduce our costs for the benefit of our customers.

The amalgamated utility would have multiple municipal shareholders and would be accountable to the customers they serve. We could eliminate duplicate positions, multiple work locations and costly computer systems, all those things that are beneficial by rationalization of assets and services.

We appreciate the government's position that the status quo is not acceptable, but it is time to stop the illogical growth pattern of Hydro One and it is time to reinvest in the Hydro One infrastructure for the long-term benefit of the people of Ontario. Increasing the size of the hole in the doughnut on the distribution side in Niagara does not make sense; having larger, fewer and shoulder-to-shoulder utilities in Niagara does.

In our review of the proposed amendments to the Electricity Act in Bill 58, we believe that alteration of ownership structure can include a lease-to-own arrangement of the distribution assets and that the minister can dispose of and otherwise deal with the assets. We trust that this interpretation is correct.

We realize that this proposal would be a "made-in-Niagara" solution to rationalize the distribution sector while at the same time provide the government with the needed capital to reduce the stranded debt. We're also aware there are other utilities in Ontario that are in a similar situation to the Pen West situation.

On the provincial scale, for a made-in-Ontario solution, our president, Mr Alton, and several other interested municipally owned utilities met with staff members of the Ministry of Environment and Energy on June 12, 2002. A copy of their presentation will be attached for your perusal. In essence, their proposal was to separate the transmission and distribution systems into separate companies. Hydro One would retain the transmission assets, as it is a natural monopoly for the benefit of all the citizens of Ontario and needs to operate on a provincial, interprovincial and even international manner to remain robust and reliable.

The distribution assets would be placed into a shell company which would oversee the rationalization of the distribution systems into shoulder-to-shoulder utilities, just as Macdonald had recommended in the Framework for Competition report.

The group I refer to is informally known as DARE, or the Distribution Acquisition and Rationalization Effort, and it is prepared to work with the government to recommend the appropriate legislative amendments to keep the distribution assets under the control and management of the people of Ontario.

In closing, we would like to applaud the government on the introduction of the Energy Consumers' Bill of Rights, as the concerns of our customers, which we have shared and responded to, are addressed in an appropriate manner.

The Vice-Chair: Thank you. Ms Churley, would you like to begin the questioning?

Ms Churley: Sure. Thank you very much. I just wanted you to—I know it's such a short time to make a presentation—expand a little bit on how you see that your proposal is different from what we think the government is proposing at this point. I know it's a little hard because we're not sure where they're going, but—

Mr Walker: I think that in our case what we're trying to propose is, that, especially in the Niagara region where Hydro One has a very limited customer base, it would be in the best interest of the customers to be served by the local distribution companies. They purchased Thorold Hydro at a premium price. Let's see, they have 8,000 customers there. They have about 4,000 customers in Pelham and 2,500 customers in Wainfleet. We're thinking we could better serve the needs of those customers in a more efficient manner and I think a more cost-effective manner. I'm on the board of the Niagara Central Airport Commission and I review the hydro bills each month, and there are substantial savings if they are Pen West customers.

1720

Mr John Alton: If I could, the other part is that they had suggested there would be three ways to dispose of the assets. There would be the strategic partnership, so we're seeing through Bill 58 that the disposal of assets could include a lease to purchase in which the local municipal shareholders would be the owners. So it would be a made-in-Ontario solution to take care of that, rather than getting into an income trust where someone may simply take all the revenue and leave the assets to deteriorate.

Mr Stewart: Your company, Pen West, is owned by the municipality?

Mr Walker: Yes. The shareholders, sir, are the town of Pelham, the township of West Lincoln and the town of Lincoln.

Mr Stewart: All right. So you bought up all of them under the—

Mr Walker: No, we merged.

Mr Stewart: You were merged.

Mr Walker: In the town of Pelham, the customer base was about 1,300 customers who were under the Pelham Hydro Commission, and the remaining approximately 3,900 customers are Hydro One customers. But in West Lincoln it had expanded to include all of its customers under the previous bill, as had Lincoln.

Mr Stewart: It was interesting when you talked about duplication, having the duplication of people and everything else. I agree with you 100%.

You're saying that the transmission then should still stay with Hydro One?

Mr Walker: Yes.

Mr Stewart: And you people then would take the distribution. That's fine for your area. Are you suggesting that could be a solution for other areas in Ontario? I guess my concern is, it may work down there, and then over here you've got something else and a

different way set up, and then over here another way. What kind of controls would there be on it to make sure the public is well served?

Mr Alton: In the June 12 presentation we made to the ministry staff, we gave an outline of how we saw it, that all the distribution assets in the province of Ontario would go into a shell company, and then multiple municipal shareholders would then divvy up all of the rest.

If you look around the province, there is a real Swiss cheese effect, or there was prior to Hydro One's purchasing the 88 municipal utilities. But in areas like Niagara, Hamilton-Wentworth, Ottawa, Sudbury, pretty well all over the province, there could be real rationalization and there would be shoulder-to-shoulder utilities where they would go from one utility to the next.

Right now in our service territory, Pelham is an island. There are 1,256 customers who are out in the middle of a sea of Hydro One distribution customers and Hydro One has to drive out from its area in order to serve those customers through our territory, through Lincoln or West Lincoln. It's the same; we have to drive through their area to get to that little island in Pelham. It's beautiful downtown Fonthill, if you've ever been out that way.

Mr Stewart: Yes, I have.

Has it been set up, though, as a for-profit company that is owned by the municipality?

Mr Alton: It has been set up as an OBCA company. It has applied for the full rate of return that it's permitted under the Ontario Energy Board. At the same time, it has a mandate that it will improve its infrastructure in order to provide better levels of service to all of its customers. There's no mention at all of dividends. We're not generating dividends to turn back to the municipalities.

Mr Stewart: Some of them are and are then suggesting that it's because of open market etc—that's why all of a sudden the prices have gone up. I know of a municipality that's doing that. That's why I wondered just how you had it set up.

Mr Alton: We're quite fortunate in Pen West. In the rural areas that we took over from Hydro One, the distribution assets needed a tremendous amount of work, so we are reinvesting a lot in the infrastructure in order to improve reliability. The investments are for the benefit of the customers.

The Vice-Chair: Thank you very much for coming before the committee today.

ROSS NORRIS

The Vice-Chair: Is Ross Norris here? Welcome. You have 10 minutes to use as you please. If you want to leave time for questioning, feel free.

Mr Ross Norris: I've given out the 15 copies. I'd like to just give a brief summary, and then make one helpful comment to Mr Stewart. This is a two-page brief, so all you have to do is read the top two pages. The rest of it is backup for the statements made in those two pages.

We're recommending that all MPPs should state their objection to the bill if they wish re-election; that Bill 58 should be scrapped now; and that not only should privatization of Hydro One be killed, but deprivatization of OPG should be undertaken as soon as possible. There are other candidates that merit deprivatization; for example, Highway 407.

The problem is what works in the public interest; that's really the focus. The concern I have, as you'll see in exhibit B, is that in fact privatization may lead to a made-in-Ontario depression for a number of reasons. That exhibit is quite detailed, so you can read it later. I'm not going to get into the details here. The scale of magnitude of privatization of Hydro One is about 10,000 times as bad, in dollar terms, as the terrorists bringing down the World Trade Centre in New York, based on the numbers. Again, that is in the appendices.

An alternative is suggested called Bank of Canada credits. Again, these Bank of Canada credits are explained in the appendices. They are legislated and available. They have an excellent history. There are a very large number of applications for Bank of Canada credits, far beyond simply the issue of Hydro, and they are tabulated here.

I should really talk briefly about the appendices. I've given you something off the Web which is from the Attorney General's office, under appendix A, about a deregulation experience reviewed by the state of Minnesota. For the assistance of Mr Stewart, that tabulates, on page A11, that the cost ratios under extreme circumstances—and you can expect those this summer. In a summertime experience, instead of a \$70 per megawatt cost, you can expect as high as—Cal-ISO, down in California, paid as high as \$9,999, which is approximately 140-fold the rate.

If you look at appendix B, which deals with the issue of infrastructure, that has some application to what we're talking about today.

If you look at appendix C, which is a paper by Jack Biddell that was presented to Mr Eves, it's clear Ontario Hydro has always been a contributor to the economy, not a loss.

Appendix D points out the electricity rates around the world. Basically, Canada and Ontario are simply the cheapest rates as a regulated monopoly. To deregulate simply raises the costs and gets into cost-push and all kinds of other corporate fun and games, which are discussed in appendix A. Some of that is pretty tawdry and messy, and that brief was written pre-Enron and pre-California.

Any questions?

Mr Bryant: Thank you for coming down. Just a quick question. You mentioned "we" a couple of times. Are you representing an organization?

Mr Norris: I'm representing an organization that is being formed but which is currently unnamed.

Mr Bryant: Sometimes those are the best ones.

You make reference to the elimination of "the goofy stranded debt." Could you expand on that a little bit?

Mr Norris: "Stranded debt," according to the Minnesota paper, is a very false item, very strange accounting.

Let me draw an analogy with you buying a house. You come home and your wife tells you she just sold the house. Your house is valued at \$580,000, and she sold it for \$58,000. Let's see: you just added the deck, you just added the kitchen improvements and all the rest of it, and she's selling it for just the price of the improvements. That is rather strange accounting. In the case of stranded debt, it's a very false item because—and also, as part of the transaction on the house, because of a leak in the roof, you have to pay off the mortgage. In the case of stranded debt, if somebody wants to privatize and buy the system, they buy the debt and the obligations that go with it. You don't set it aside over here for taxpayers to pay, or the existing homeowner in the analogy. Does that explain the concept?

1730

The Vice-Chair: Sorry, we're going to try to get all the parties in here. Ms Churley, would you like to ask a question?

Ms Churley: Yes. Thank you for your presentation. It looks like some very interesting documentation in here which I'll certainly take a look at.

I just wanted to ask you a little bit more specifically about beneficial implications of BOCC. I have been hearing about this Bank of Canada draft idea for some time and it never goes anywhere, and yet you're proposing it as one of the solutions here. Could you expand on how you actually see getting the government to implement such a plan?

Mr Norris: In the case of the city of Toronto, Paul Hellyer and I advocated those back in 1996. I advocated them again and requested a hearing. At that time there was an indication there would be a seminar, as requested, held on Bank of Canada credits, because at that stage the city of Toronto was paying around 12% for its money. Now, you and I can go out and get a mortgage for as low as probably 3.5%. Governments by definition are bloodless. They never go bankrupt. So why would such a good risk pay fourfold what you and I pay, who are subject to death, dismemberment and all the rest of it? Why would they have to pay fourfold? So what we are advocating is use of Bank of Canada credits.

In the case of the city of Toronto, something like \$400 million could have been saved, or that \$400 million could have been used to strengthen the school system, to add infrastructure, strengthen the safety net and all kinds of other positive implications.

Ms Churley: So why doesn't it happen?

Mr Norris: I suspect there's probably Bay Street involvement. They don't want you to know about it. Why Messrs Chrétien, Martin and David Dodge don't tell you about it, I don't know. You'd have to ask them.

Mr AL McDonald (Nipissing): Mr Norris, I guess what you're trying to tell us is that we should just leave it the way it is.

Mr Norris: No, I'm advocating that you go further, that you start deprivatization of OPG right now and

deprivatization of Highway 407, which has a cost premium to Ontario taxpayers in excess of \$840 billion and a loss of credit in excess of \$8 trillion over the life of the contract. Also kill any further privatization proposals, as advocated by various groups.

Mr McDonald: I don't understand what Highway 407 has to do with Hydro One. But I'll just give you my sense. I live in northern Ontario. Hydro One services us and has serviced us for the last 30 years, for example. In the last year, we've lost our hydro 26 times, ranging from an hour to 48 hours, twice in excess of 24 hours. If you're stating that everything is fine the way it is, how do I explain to the people in northern Ontario who aren't being serviced very well that this is working fine?

Mr Norris: We certainly have a rate advantage relative to the rest of the world, if you look at appendix D.

Mr McDonald: But I'm asking how the people of northern Ontario are being served well by Hydro One when we lose our power from 24 hours to 48 hours.

Mr Norris: Certainly that's a problem. It's perhaps a regulation problem or a maintenance problem.

Mr McDonald: A regulation problem? But right now it's publicly owned and it's not servicing northern Ontario. What I think I'm hearing from you is that we should leave it the way it is.

Mr Norris: Well, if you look at schedule A, you'll find that the record of private industry is not as effective or is worse.

Mr McDonald: But we're not talking about private, because it's not private now. You're advocating that we leave it in public hands. We've been without power for 24 to 48 hours on two occasions just in the last year. What I'm asking you is, is that OK?

Mr Norris: Of course not.

Mr McDonald: That would be my concern.

Mr Norris: But the alternative to privatization—

Ms Churley: Is even worse.

Mr Norris: Is even worse, based on the experience. That's detailed in appendix A.

Mr McDonald: I'd have to disagree, but that's fine.

The Vice-Chair: Thank you very much for coming before the committee today. We appreciate your coming in.

Mr Norris: Thank you.

The Vice-Chair: We will recess for 10 minutes, until after this vote, and then we have one more person.

The committee recessed from 1736 to 1745.

ROBERT CAMPBELL

The Vice-Chair: We will bring the committee back to order. Is Robert Campbell here? Welcome, Mr Campbell. You have 10 minutes to use as you please. You can either speak the whole time or if you want to leave any time for questions, feel free.

Mr Robert Campbell: Thank you, Mr Chairman. I appear simply as an individual. I am a member of the

Ontario Electricity Coalition but I'm not appearing officially for the coalition, only as a private citizen.

There are two main points that I would like to address with respect to Bill 58. The first of these is the matter of foreign ownership. I would like to say that the degree of foreign ownership in the Canadian economy is one of the highest, if not the highest, of the developed countries. It used to be referred to in Europe as the Canadian disease, not to be tolerated there to anything approaching the same extent, much less in the United States.

This was the condition of the country at the time of the introduction of the Canada-US free trade agreement in 1989. Since then, foreign ownership of the Canadian economy has greatly increased as a result of the FTA and particularly since the introduction of NAFTA in 1994. The result of this has been the substantial de-industrialization of Canada, particularly in the case of Ontario as a highly industrial province. The process has often been accomplished by way of takeovers and buyouts, not infrequently financed by the Canadian commercial banking system with little infusion of foreign capital.

The proposed privatization, even in part, of Hydro One exposes Ontario's economy to further foreign inroads by introducing—we have already had the introduction of the competitive market and now the beginning of the privatization of the electrical system.

The relevance of another country's experience in this process I submit is very salutary. I would like to refer to the experience of New Zealand. In that case, New Zealand began privatizing the electricity system in their country, which was formerly a state-owned enterprise, in 1986. It began this process by converting what was then publicly owned segments of the system into separate operational units, and the transmission network was commercially isolated through a subsidiary which they called Transpower. These two corporations were then separated into a transmission and a generating segment. The generating monopoly was split into two competing state-owned enterprises and the elected boards, the public boards of these corporations, were then transformed. They became commercial corporations and the government-appointed boards of directors became participants in what were formerly the public entities into commercial corporations.

1750

This process is very well documented by Jane Kelsey, who is a law professor at the University of Auckland. She wrote about this subject and has very carefully documented it in a book in which she says that the Minister of Energy at that time made clear that he wanted privatization of these entities, and preferably with tradable shares. I think there's an analogy between that experience and what is happening in Ontario.

One specific example of these privatized former public utilities—and this was a transmission company—was the company that fell heir to the transmission system that supplied part of the power to the city of Auckland. It did this by an undersea transmission system that had four power cables. The company was Mercury Energy and it replaced what was formerly a public power board.

Mercury then had successive power failures in this undersea corridor. They failed in quick succession in 1998, the very year of the passage of Bill 35 that brought in the restructuring of Ontario Hydro. One of these cables failed on January 22, one failed on February 9 of the same year and the third on February 19. The fourth of these cables failed on the following day. The result of this complete collapse of the transmission system supplying part of the city of Auckland shut down a large part of the city, including hospitals, high-rise buildings and businesses, which were completely without power except for emergency power that was supplied by diesel emergency units. The extent of the failure was so striking that a cargo ship in the harbour of the city was pressed into service to supplement the failure of this supply of power.

I simply say this as a possibility of what the future could bring if the continuation of Hydro One's uncertain future is dealt with—we have had nothing to assure us that things are going to go right and I think there is every indication that they could go wrong. I strongly urge that any proposal to privatize Hydro One or part of it be voted down on behalf of the people of Ontario.

The Vice-Chair: Thank you very much. There is time for a question from the official opposition.

Mr Conway: Mr Campbell, let me ask you this question: accepting the vital public interests that are at play in the electricity business, particularly in a country that is sub-Arctic for four or five months of a normal year, and accepting a very healthy measure of public ownership, what do we do about a situation where—the case you have cited about New Zealand, which is as you have described it, presumably. We were told in this very room about five or six years ago that after 40 or 50 years of public ownership of our public generation, we were running a whole bunch of minimally acceptable power plants, some of which were getting close to being a threat to public safety.

I raise the question because this is a big, important, complicated business, the electricity business. We're at a bit of a crossroads in Ontario because decades of public ownership, particularly in the generation side of the business, have brought us to a very, very troubling point in our development. Help me with that difficulty.

Mr Campbell: I would reply to that in two ways. First, if I'm not incorrect, I would say Ontario Hydro, as a vertical system—except for, I suppose, the local distribution systems, the municipal ones were all part of the same system. But they were really integrated into it and it was in effect a vertical system so that it was completely within the public domain. It was in a situation where the controlling interests, which would be the government on behalf of the people of Ontario and, I suppose, the users in the municipalities, were able to deal with this big picture. Hydro had actually built up, really, Ontario's economy by industrializing the province and, second, it had electrified rural Ontario.

Mr Conway: That's all true. Time is running very short here and I just want to make this point, though. In the last 30 or 40 years, Ontario Hydro was largely a nuclear design, construction, engineering and nuclear power operation, and it was in big trouble by the mid-1990s, notwithstanding the fact that three different political parties had had responsibility for its oversight and management.

I accept your argument about the importance of public ownership and control, but an objective, fair-minded person might look over the last 40 or 50 years and say that politicians didn't do a very good job, particularly on the generating side, of exacting a reasonable standard of accountability and performance.

The Vice-Chair: Mr Conway, I'm afraid we're out of time. Thank you very much for coming today to the committee, Mr Campbell. I'm afraid we have to adjourn for the day. We'll be back tomorrow at 3:30.

The committee adjourned at 1758.

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Standing committee on general government

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STANDING COMMITTEE ON
GENERAL GOVERNMENTCOMITÉ PERMANENT DES
AFFAIRES GOUVERNEMENTALES

Thursday 20 June 2002

Jeudi 20 juin 2002

*The committee met at 1535 in room 151.*RELIABLE ENERGY AND CONSUMER
PROTECTION ACT, 2002LOI DE 2002 SUR LA FIABILITÉ
DE L'ÉNERGIE ET LA PROTECTION
DES CONSOMMATEURS

Consideration of Bill 58, An Act to amend certain statutes in relation to the energy sector / Projet de loi 58, Loi modifiant certaines lois en ce qui concerne le secteur de l'énergie.

POWER WORKERS' UNION

The Vice-Chair (Mr Norm Miller): We'll call the standing committee on general government to order for public hearings on Bill 58. Is there a representative of the Power Workers' Union here? Please come forward and state your name. You have 10 minutes. You can either use it completely for your talk or leave time for questions, whatever suits you. Welcome.

Mr Don MacKinnon: I am Don MacKinnon, president of the Power Workers' Union. I'll begin by saying that the Power Workers' Union supports the objectives of Bill 58 and commits to working with other stakeholders and the government to help ensure these objectives are realized. In particular, we commend the bill's inherent long-term vision of a strong, reliable, efficient and responsible electricity network for generations to come. In fact, our most important message to this committee and, through you, to the people of Ontario is that we must take the long view when deciding electricity system issues.

Physics and economics—intersecting realities. When the ice storm of 1998 destroyed much of eastern Ontario's electricity network, it opened everyone's eyes to the obvious fact that the system is vulnerable to catastrophic natural forces. No one complained about spending money to rebuild the system as quickly as humanly possible. We had no choice.

What is not publicly visible is the system's vulnerability to deterioration and breakdown because of the silent but steady action of far less dramatic natural forces. Very few people understand the need for careful, continuous and comprehensive system maintenance and refurbishment. Unless there is a power interruption,

maintenance gets no public attention. The only choice we really have is when we spend the money, not if.

For Hydro One Inc, we are at the stage where the money needs to be spent. For several years, because of a long-term rate freeze, Ontario electricity customers have not been paying enough to fund adequate maintenance and refurbishment of the electricity delivery system. This is the legacy of our intense focus on the price of electricity service.

We must not only address neglected maintenance and technological upgrades of the existing system, but also expand it to keep up with changing economic realities. We really have no choice, and Bill 58 provides the flexible framework the province needs to achieve this.

New investment, market discipline and consumer protection: Ontario's electricity network requires a significant infusion of capital for upgrading and expansion. This is recognized by the government in one of the purposes of Bill 58: to provide the necessary capital for infrastructure improvements with respect to the transmission and distribution system in Ontario.

Where will this money come from? It will still be many years before the debt from the former Ontario Hydro is retired. No political party is proposing that Hydro One go deeper into debt. It is simply a fact that private investors who do not require public guarantees are the only other source of this necessary funding.

This fact dovetails with the next stated purpose of Bill 58: to bring market discipline to Hydro One and prevent any possibility of the recurrence of staggering debts such as the \$38-billion debt, while at the same time eliminating it.

Once again, there is consensus on these objectives. There is no disagreement with subjecting Hydro One to market discipline because that is in the interests of consumers. Nor is anyone suggesting that the former Ontario Hydro debt not be paid down as quickly as possible, because that is in the interests of taxpayers and consumers. The question is how market discipline can best be brought to Hydro One and how the debt can be paid down sooner rather than later.

The final purpose of the bill is to ensure consumers are protected. This means fair and reasonable prices and high levels of reliability and customer service. Here again, there is no argument that this is a necessary and desirable objective. The question is, how can it best be achieved?

Bill 58 provides all the powers needed to fulfill all the government's purposes, but while there is no real dis-

agreement with these purposes, there is significant disagreement on how the government should use the powers in Bill 58 to pursue these purposes.

Hydro One IPO—still the best approach. To address this, the PWU asked John Todd, a noted regulatory expert, to review the relative merits of ownership models. He concluded that the analysis indicates that the investor ownership option—IPO—is superior to both the status quo and the creation of an income trust with respect to three of the objectives of the Energy Competition Act.

1540

Private investment is superior to the status quo with respect to one additional objective stated in the act: ensuring that Ontario Hydro's debt is repaid in a prudent manner and that the burden of debt repayment is fairly distributed.

In terms broader than the objectives of the act, the analysis concludes that investor ownership has the following advantages over public ownership.

The public trading of equity securities would provide capital market discipline on the management decisions of Hydro One that would enforce the pursuit of commercial interest that is expected by the capital markets to result in increased value. Among other goals, the company would be disciplined to pursue increased operating efficiency, which would keep the prices charged to customers low, given the performance-based regulation—PBR—regime used by the Ontario Energy Board to set rates.

Hydro One's commercial attitude under investor ownership would discipline the company to manage risk prudently in commercial undertakings, such as expansion, that are part of Hydro One's current strategy. Management would be focused on profits without being confused by political goals.

The proceeds from the IPO would permit the immediate paydown of a significant portion of Ontario Hydro's stranded debt. With lower carrying costs, this debt reduction will accelerate the rate at which the remaining stranded debt will be paid off.

Commercialization would not result in abuses such as discriminatory system access or compromised system safety, service reliability and service quality. There are IMO market rules that will require the investor-owned utility to meet the same standards as it would if it is crown owned.

Furthermore, the financial consequences around system safety, reliability and service quality implemented by the OEB in its PBR framework will provide an even greater discipline under investor ownership than under crown-ownership.

The risks associated with Hydro One would be transferred from Ontario citizens to the private investors.

The analysis indicates that the creation of an income trust has several disadvantages as compared to transferring Hydro One to private ownership through an IPO, such as limited market potential, the lack of market discipline of management and limited access to new capital.

Considering the disadvantages of not undertaking the IPO approach for all the shares, we recommend that

whatever portion of the company that is to change ownership be done under a partial IPO model.

It is clear that in the latter years of the 20th century public ownership of the electricity system led to government interference that helped create some of the problems we are now trying to solve. For example, the many political delays of the Darlington nuclear station construction and the economically damaging, but politically popular, price freeze beginning in 1993 significantly pushed up the Hydro debt and starved capital and maintenance budgets. It would be naive to believe that political interference in the operation of a publicly owned electricity system could be avoided in the future any better than it has been in the past.

We have been very vocal about the need to ensure that the transmission and distribution functions currently combined in Hydro One's wires business remain integrated. To us, with our detailed experiences in the wires business, the wires integration found in Hydro One makes good business sense for the following reasons.

First, the primary effect of separating Hydro One into transmission and distribution companies would be to weaken it as a commercial enterprise in terms of its attractiveness to investors. This consideration is relevant regardless of the mechanism used to raise capital in the future: an IPO, an income trust or further debt issues.

Second, the decision to separate the company into two entities should be based on operational considerations, not academic theory, taking into account the specific and unique characteristics of Hydro One. It would be premature to assume that the benefits that would be lost are not significant.

Third, the viability of the separated entities should be carefully assessed before proceeding. There is a very real risk that without the unifying transmission backbone, the geographically diverse distribution company would no longer be economically viable. If separation were to result in a further disassembling of the successor distribution company, the result would work against the goal of rationalizing and improving efficiency in the Ontario electricity distribution sector.

Fourth, the process of separating the distribution and transmission assets is not straightforward. As well as easily separable assets, there are significant shared assets that would have to be assigned to one entity or the other. Separation could lead to significant inefficiencies, as compared to the current process of allocating the cost of the integrated entity to transmission and distribution services.

The actual division of assets would have to be carefully reviewed by the OEB in order to ensure that the separation is done in accordance with regulatory principles and does not skew the costs borne by each entity. Given the board's backlog, completing the necessary regulatory processes could take two to three years.

The delay in any advance with the refinancing of Hydro One would be inconsistent with the province's objectives of protecting the interests of customers, promoting economic efficiency and maintaining a

financially viable electricity industry. We appreciate your consideration on our views.

The Vice-Chair: Thank you very much, Mr MacKinnon, for coming before the committee today. We appreciate it.

Mr Sean G. Conway (Renfrew-Nipissing-Pembroke): Do we have time for any questions?

The Vice-Chair: No, I'm afraid we used all the time up.

JANICE MURRAY

The Vice-Chair: Is Janice Murray here? Welcome. You have 10 minutes to use as you wish. You can either use the full 10 minutes or allow time for questions, as you desire.

Ms Janice Murray: I just have a very brief statement to make today.

My name is Janice Murray. I ran in the riding of Etobicoke-Lakeshore in the last provincial election as an independent candidate, and I ran in the federal election in 2000 as a candidate for the Marxist-Leninist Party of Canada. In both cases, I ran on a platform for renewal of Ontario and of Canada, which is an urgent need of our times. While I am here on my own behalf, the views I am expressing here are shared by many of my fellow workers, activists in our area and people I have spoken to at their doors and in the community. That view is that the government has no authorization from the people of Ontario to sell off our assets, in part or in full, now or in the future, and that this sell-off must stop.

In the Lakeshore, we live and work in the shadow of the four sisters, the four smokestacks of the Lakeview generating plant in southeastern Mississauga, and are acutely aware of the pollution it already generates through the burning of fossil fuel, in this case coal. This area already has one of the highest levels of air pollution in southern Ontario, outside of Hamilton.

Far from the market opening encouraging green alternatives, the electricity market opening and the prospect of increased exports of power to the US threatens to result in much increased burning, whether of coal or, in the future, natural gas, with attendant damage to the environment and the health of the people.

For years there has been a fight waged to have this plant closed down and modified in favour of more healthy and environmentally sound sources of electricity. Even under government control of these utilities, we who live and work in the area are not the ones who decide what will happen to our public assets. What we need is tighter public control, not fragmentation of the public power system and the operation of market forces.

The fundamental question which comes to light, whether in our area or in the whole question of the sell-off and privatization of our public assets, whether electricity or water, is, who will decide what happens with these assets which belong to the people of Ontario, and in whose interests are these decisions being made?

In my view, it is the responsibility of the provincial government, as representative of a modern society which

is responsible to its members, to act in the interests of that society. A government which does not do so is not fit to govern. Most of us in Ontario and in Canada live in large cities and towns. We depend on our society to provide us with clean water, electricity and heating oil. Any interruption in the provision of these is dangerous, as we have limited alternatives, particularly in the winter.

In Ontario, as is generally the case in Canada, public utilities have supplied that electrical power, in this case since the time of Sir Adam Beck at the beginning of the 20th century. It is that public power which has been at the basis of the industrial development of Ontario.

The question is whether this industrial development has been based on serving the needs of the working people of Ontario. It has not. However, if the economy of Ontario is to be renewed on a modern basis, it must be done on a planned basis, on the basis of a pro-social economic and political program which will stop paying the rich and increase funding for social programs.

The mechanisms must be put in place so that the people of Ontario decide what infrastructure is to be developed and how to develop sustainable sources of electrical power from the starting point of what is required by the society and of the development of a truly strong and self-reliant economy. The starting point cannot be the dismantling of an infrastructure which has been built up by the working people of Ontario over close to a century.

No matter how you look at it, the essence of Bill 58 is to open the door to the sale of all or part of Hydro One. If the government had not opened the electricity market and had no intentions to sell off our assets, there would be no need for this bill. The "consumer protection" being offered by this bill is protection against the market forces which the government has let loose on the consumers of this province. The turning over of the hydro rights-of-way to the crown does not eliminate the possibility of the government also selling these off.

Further, based on information in the press it appears the government has already put arrangements in place to sell off 40% of the utility to a single private partner who will run the utility. The response of the government to the ruling of Justice Gans that the province has no legal authority to sell our assets has been to change the law and appeal the court decision, with the costs of the appeal being paid by the people of Ontario. Whose interests does this serve? It seems to me it serves the interests of the financiers who make their millions in the most parasitic way, without producing anything but by speculating in the market. It serves the interests of a US market hungry for a secure source of electrical power. A privatized Hydro One would be integrated into the north-eastern US regional grid, with customers in Ontario competing for electrical power with US consumers, with the resultant fluctuations in prices based on demand. It is part of the annexationist plans of the US against Canada.

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In 2000, the World Trade Organization initiated negotiations on a General Agreement on Trade in Services, or GATS, through which the international

financiers want to open up to a worldwide tender over 160 services, a form of international privatization, with these services including electricity and water. Their date for requests for market access under the GATS was set for June 30, 2002, with initial offers of market access by March 2003 and the agreement to be in place by 2005. There was a very definite schedule in place. The push to privatize services, whether electricity or water, is part of this worldwide anti-social offensive aimed at making these all commodities to be bought, sold and speculated upon in the international market rather than services that meet the needs of the people. It does not serve the interests of society, neither in Ontario, in Canada, nor worldwide.

It does not serve our interests, and we are marginalized from making these decisions which deeply affect our lives, the nature of our province and our future. In 1998, the Ontario government passed the Energy Competition Act, which divided Ontario Hydro into a number of companies and put these on a commercial footing; that is, it restructured them for future privatization. These included Hydro One and Ontario Power Generation.

Who set this direction? Where was the broad public discussion then about the future of public utilities in Ontario to authorize such legislation? On December 13, 2001, as one of his last acts in power, Harris introduced the bill which led to the market opening and to the preparations made to sell Hydro One. Where was the public discussion on this market opening which has now been implemented by the current government?

Bill 58 was introduced in the Legislature on May 29, 2002. Only on June 14, 2002, were public hearings announced—which was last Friday—with the deadline for signing up for the Toronto hearings being 3 pm on the next business day. The hearings are being rushed through in less than a half-dozen cities in one week. We are told that it is a matter of fact that Bill 58 will become law on June 27, 2002.

Not only are the consultations a sham, as the government has already openly decided how to proceed, but one of the most disturbing aspects in this is that there is no basis in the lives of the people of Ontario for such legislation to be required. There is no one in Ontario, no section of the working class and people, or even Ontario industry, that is coming to the government demanding that the government should sell off our public utilities. A recent poll indicates that 87% of people in Ontario oppose this course of action, and there is no factual evidence to show that such action is in the public good. So why is this legislation being pushed through the Legislature?

What is required is a broad discussion, not only on the future of public utilities but on the direction of the economy, which must start from the question, what are the needs of a modern, self-reliant, provincial economy within a sovereign Canada? In the meantime, in my view Bill 58 must be withdrawn. The market opening must be suspended and a hold put on all leasing or sales of power generating stations. All of these belong to the people of

Ontario, and law or no law, the provincial government has no authority to sell off these assets against the will of the people.

In my view, the production, price and distribution of all utilities must be under strict public control and ownership to guarantee the safety and well-being of the people and their society. No third party investments or trading of utility commodities should be allowed whatsoever. No interference with the distribution of utilities, whether electricity, water or heating oil, can be tolerated. All utilities should be returned to the public under the strictest of public regulation.

The Vice-Chair: That allows us a couple minutes for a question. The third party, Mr Prue, would you like to—

Mr Michael Prue (Beaches-East York): I didn't think there was going to be time, but yes. You talked about the four sisters. I just want to zero in on a little local concern here. The pollution there: can you tell me—I know exactly where it is, I've lived in Toronto all my life, but you live right underneath the smokestacks.

Ms Murray: We live right underneath it, yes.

Mr Prue: They're fairly tall. Doesn't it all blow away?

Ms Murray: No.

Mr Prue: Tell me about it.

Ms Murray: I can tell you about it from personal experience in the sense that there's a layer of dust. You get a very large concentration of dust there. I don't have the figures on me; I know there has been a lot of work done by a group called GASP in Etobicoke on the whole question of pollution from the generating plant. I think it's been instrumental in that they are going to convert it to natural gas at a certain point.

With the market opening, the concern is one of the things that happens is the push or the impetus is to sell more power. So right now it's being used at times when there's peak flow, when they need more power generation. Under conditions of market opening, there is a very good possibility, and even an expectation, that the amount of time that plant will be in use will increase severely, with all the attendant risks inherent in that.

Mr Prue: The community wants it converted sooner rather than later?

Ms Murray: Yes. I think 2005 has been indicated as a time. I know all fossil generation involves a certain amount of pollution. I don't know what the difference will be in terms of natural gas. I'm not an expert on that.

The Vice-Chair: Thank you very much for coming before the committee today.

PROVINCIAL COUNCIL OF WOMEN OF ONTARIO

The Vice-Chair: The Provincial Council of Women of Ontario representative? Welcome. Please state your name. You have 10 minutes to use as you please. You can speak the whole time or allow time for questions, whatever suits you.

Ms Gracia Janes: My name is Gracia Janes. I'm the immediate past president of the Provincial Council of Women of Ontario.

The Provincial Council of Women of Ontario urges the provincial government to retain Hydro One and Ontario Power Generation in public ownership and control, as they have been for over 75 years.

In light of the extremely short timeline for Bill 58, which allows for the sale of Hydro One, and particularly the hasty closure of debate after just one week of consideration in the Legislature, it's unlikely that our submission will change the government's mind. We would have hoped to have as lengthy a public consultation and as thorough an examination of the issues as those provided by the standing committee on alternative fuel sources, which we presented to.

Nevertheless, given our concern in these matters and our very long history of expressing PCWO policy regarding these valuable assets—Hydro One and Ontario Power Generation, formerly part of Ontario Hydro—we will use this opportunity to go on record as opposing Bill 58 and then outline our reasons for doing so.

PCWO was established in 1923. It represents many thousands of Ontario citizens from a significant diversity of backgrounds through its 14 provincially organized societies—for example, the Older Women's Network and the Farm Women's Network—and its six local councils of women in London, Ottawa, Hamilton, St Catharines, Toronto and Windsor. We have acted in the public good as long as, or in some cases longer than, our hydro systems have been providing the citizens of Ontario with reliable power for home and industry, school and hospital, rich and poor, in rural and urban centres, from the populous cities of the south to the sparsely populated areas of the north. As evidence of this, we cite the work of the Toronto Council of Women who, as early as 1910, lobbied successfully for clean water and proper sewage disposal.

In the same fashion, and for the public good, PCWO has long advocated for improvements in the hydro system, focusing on the dangers of the aging nuclear plants, particularly Pickering A and Bruce A. At every opportunity, we have called for a long-term plan to promote energy conservation and a far greater use of alternative forms of energy, as evidenced by our extensive brief to the committee on alternative fuel sources in February of this year. We have pointed repeatedly to the extraordinary costs of nuclear plants and the costs to come, which could be close to \$100 billion, if one includes the enormous costs of waste disposal, retirement of the stranded debt, and the decommissioning or rebuilding of unsafe older plants.

What we have not advised or advocated for is the sale of Hydro One and Ontario Power Generation to the private sector and a move to a market-driven electricity system. This would not be in the public interest and could well lead to great costs and risks for the citizens of Ontario. Our views regarding the government's original plans to privatize Hydro One and then parts, or the

whole, of Ontario Power Generation reflect broad public sentiment, as seen also in the opposition expressed by citizen and municipal petitions presented in the Legislature over the past several weeks; presentations to the minister in his consultations by industry leaders, farmers, local public utilities and individual citizens; letters of concern to the minister and Premier from many municipalities across Ontario; and the successful union-led challenge in the court. In the words of one electric utility board chairman, "If you are already in the hole, stop digging."

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While the Premier has very recently responded to such widespread and vehement public resistance to the sale of Hydro One by promising to retain control of at least 51% of this valued public system, Bill 58 assures us that the government can indeed sell 100% of Hydro One if it so chooses. In fact, the inclusion of an expectation of over \$1.5 billion in revenues from the sale of public assets in this week's budget speech hinted strongly at such a sale. The beneficiaries in this case would only be the private sector, given that the public will still be responsible for the paying off of the debts incurred to date and predicted for the future and that the large profit-driven private sector companies will be protected from public challenges regarding environmental degradation or government attempts to regulate through section 11 of NAFTA.

It is mainly the private sector who have been advocating the radical move from a publicly owned, operated and regulated electricity system to a privately owned, stock market approach to hydro provision, and it is some private companies that have been intrinsically involved in the sad hydro disarray in states such as California, which had to take back public control of its system at considerable cost.

As early as 1997, PCWO cautioned in a letter to the select committee on Ontario Hydro nuclear affairs that the Macdonald commission plans for privatization of our system were quite revolutionary, that few jurisdictions had tried this system and that there had been some major disruptions attributed to this.

Very recently, in a letter to then-Minister of Energy Jim Wilson, we warned that the government's move toward deregulation of the electricity market "is putting its goal of running the system on a business model, with the inherent opportunities for privatization and profit, ahead of long-term environmental sustainability and safety for the citizens of Ontario."

We are not alone in warning of environmental damages. We note the cautions of the Toronto Environmental Alliance that the sale of coal-fired generating stations would lead to increased use of these plants and a concurrent increase in air pollution, hospitalization and deaths of Ontario citizens. Similarly, an expansion of privately owned transmission lines to serve the lucrative northeastern USA grid and private ownership or leasing of nuclear plants will serve to extend the life of aging plants, with all of their inherent risks to health and safety.

With respect to the claim that a privatized, de-regulated, market-driven system will enhance the use of

green energy options, we would note that given the lack of interest by the larger private sector companies in these options to date, it is quite likely that green energy sources will continue to be an afterthought. In contrast, a publicly owned and regulated system could, using many of the recommendations of the alternative fuel sources committee report, take a leadership role in the speedy implementation of a "green first" strategy for the benefit of Ontario citizens.

Claims are also made that in the end, after we get used to the stock market free-for-all approach, the prices will come down substantially and calm will prevail. This is contradicted in a recent Toronto Star report, where David Freeman, chair of the California Power Authority, said, "the promise of lower prices failed to materialize and, on average, electricity bills are now 40% higher for California residents and 70% higher for industry. As well, private utilities spend little on maintenance, which in turn contributes to power outages and supply troubles and leads to higher prices."

The uncertainty of supply and demand is underscored by a June 8 report in the Calgary Herald that stated that three new plants would flood the electricity market. While this would lower prices dramatically, it is giving pause to generators as to whether they will make the massive outlays needed to finance their projects. This in turn could lead to a shortage of supply and higher prices. The government's initial Hydro One prospectus certainly confirmed the potential for such price increases after an initial cap on rate increases through 2003.

Uncertainty of supply is also an issue, as evidenced by the California experience and by predictions of Ontario's independent market operator, whose report stated that it believes Ontario has adequate supplies to handle normal weather and likely economic activity. But over the next 18 months, it says, there will be extensive periods during which Ontario won't have the full electricity reserves it calculates are needed.

A NAFTA Commission for Environmental Co-operation report has also warned that this is a "very fast-changing, dynamic energy market" and that electric utilities cut their spending on conservation and efficiency to \$1.4 billion in 1999 from \$2.4 billion in 1995." As well, the report notes that "the electricity sector is already the single largest source of reported national toxic emissions in Canada and the USA."

In a May 8 letter to the Globe and Mail, Premier Eves stated—and Mr Stockwell reiterated this when he introduced the bill—that in the generation, transmission and distribution of power, the four provincial goals are to (1) ensure an efficient supply of energy that is competitive in the international marketplace, (2) provide necessary capital for restructuring the generation and distribution of power in Ontario, (3) bring private sector discipline to Hydro One and prevent any recurrence of the current \$38-billion debt, and (4) achieve these goals while protecting consumers. These goals again reflect an intention to sell or lease the transmission system, to continue with the restructuring of the generation system and then to sell the generating stations.

It is our firm belief that this is not in the public interest. Rather, we feel the public would benefit from the following goals, many of which were reflected in presentations at recent public hearings by a very broad cross-section of citizens:

(1) Protection from the international markets, whose energy suppliers and transmission companies will eagerly snap up our systems, act in the interests of their shareholders, and then through section 11 of GATT override provincial, federal or municipal moves to protect their citizens.

(2) Public ownership of the valuable provincial transmission and generation system assets with improvements in the system—for example, rural services; attribution of the debt to the proper source, the costly expansion of the nuclear stations—by the way, there's the same problem in the USA with the private sector; they have old, aging nuclear plants and they're deteriorating and cost a lot—a gradual paydown of the debt through surcharges on hydro bills and the profits from transmission and generation of power; a halt to the very costly plans to internationalize operations through the acquisition or construction of transmission lines in the US and elsewhere; and a stop to the accumulation of staggering debt caused by rebuilding nuclear plants and then a phase-out of aging plants at the end of their life spans.

(3) Protection from the discipline of the marketplace, for example, the failures in California, with the private sector able to manipulate the market, causing shortages and outages.

(4) Assurance that our systems will operate for the public good rather than for private shareholder profit, will be operated safely and will be sustainable through a growing use of renewable sources of power. This latter goal will be greatly enhanced through the government's acceptance and follow-through on many of the recommendations of the committee on alternative fuel sources.

Only in a publicly owned and regulated system can these needs be realized. The Provincial Council of Women of Ontario urges you to listen to the people of Ontario, who feel they have been well served by publicly owned hydro systems—systems that, while needing improvements and a move away from nuclear power toward sustainable sources of energy, have ensured a safe, reliable and affordable source of hydro for many years.

In conclusion, we ask you to withdraw Bill 58 and initiate a far-reaching public consultation. This will signal better than anything else to Ontario citizens that the threat of future privatization of Hydro One and Ontario Power Generation is truly off the agenda and that the government of Ontario is listening to its citizens. Only in this way may the government show that it has the foresight and wisdom to avoid the uncertainty, volatility and environmental and health risks that we feel are inherent in a privatized system, and that it is willing to invest in the safety, certainty, stability, environmental sustainability and affordability that publicly owned, managed and regulated hydro systems can provide for the citizens of Ontario.

The Vice-Chair: Thank you very much. We don't have any time for questions on that, but we appreciate your coming in and making that statement.

HOLY TRINITY PARISH
SOCIAL JUSTICE COMMITTEE

The Vice-Chair: Is Daniel Heap here? Welcome, Daniel. You have 10 minutes to use as you please. You can speak for the whole time or allow time for questions, whichever suits you.

Rev Daniel Heap: Honourable government members of the committee and listeners, I thank you for allowing me the time to speak with you today on the subject of Bill 58.

I am the Reverend Daniel James Macdonnell Heap, often known as Dan Heap or Don Heap, a retired priest of the Anglican Church in the Diocese of Toronto and an honorary assistant curate at the Church of the Holy Trinity on 10 Trinity Square in downtown Toronto. I'm speaking for the social justice committee of that parish, which considered this matter at its meeting on Sunday, June 16, 2002, and authorized me to speak with you on this day.

I have only one point to make. This government has no moral right to sell the Ontario electrical industry, as proposed in Bill 58. I say to you that if you do so you will be morally guilty of stealing, because as a minister of the Christian Church I have a duty to warn you of this. I am not speaking of legality, of whether your action would be illegal by the Constitution and laws of Ontario or of Canada, because I have no legal training or authorization in that field. I am speaking of morality, one of the principles traditionally declared by Moses in the biblical book of Exodus, chapter 16, verse 15, "You shall not steal." This moral duty, presented as a commandment of God, the creator of the universe, has been honoured and respected by Jews, Christians, Muslims and many others for most of the recorded history of our civilization.

No matter how often it is evaded and broken, by persons or by governments, the principle remains: "You shall not steal."

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Why do I say you will be guilty of stealing? This industry was built by the labour of all the people of Ontario, not only by the hundreds of thousands or millions of workers who, during a century, physically built the generator plants and the distribution networks, but also by the greater number whose labour in other industries produced the capital surplus and the taxes with which this industry was financed. They and their descendants have the moral ownership of this industry.

Second, this industry is indispensable for all the people of Ontario, not only for major essential industries such as communication, transportation, agriculture and the manufacturing and distribution of the necessities of life, but our very homes have been built in the universal expectation that electricity, which we need, is available at moderate cost from the vast resources of our province. If

our electrical industry is sold to persons and interests who have no responsibility for the life and work of the people of Ontario, we will be plunged into hardship, chaos and disaster.

Third, you have failed to give the people of Ontario reasonable time and information to be able to decide whether you are acting in our best interests in this sale, or whether it is necessary to choose a different government which would act more honourably. Even the federal government had to abandon the measure of protection for Canadians' health from harmful additives in imported US gasoline.

Your action, as proposed in Bill 58, will deliver the work of five generations of Ontario citizens and 10 million presently living people of Ontario into the merciless hands of arrogant persons and corporations of the United States of America. We've seen it in other provinces, such as my home province of Manitoba and in another province where I've lived, Quebec, where the whole economy of the province is distorted by the opportunity—so-called—of selling power and destroying the river systems of those provinces.

Therefore, I say that if you pass this bill, or one like it, in this session of the Legislature, you are guilty of stealing.

Please, ladies and gentlemen, reconsider.

The Vice-Chair: That allows five minutes for questioning. It's time for the government side.

Mr R. Gary Stewart (Peterborough): I'd only make one comment. I have a great deal of difficulty with a man in your position, sir, and your professionalism, who accuses somebody like myself of stealing. Possibly some of the things you're suggesting that I am, maybe, possibly, one should consider for oneself as well, because when I listen to some of the comments you make in here, possibly there is some exaggeration and non-factual things which make you go somewhat over the line.

I have great difficulty with what's been happening here the last few days, with people coming in and making some comments that don't seem to have a great deal of backup. It was interesting yesterday when a member mentioned that in the last month, in the particular community he lives in in northern Ontario, there have been outages 23 times extending from two minutes to 48 hours. Now, could you explain to me, how do you go and tell the people of that community that the way we're operating the hydro system now is the way to go, especially when some of the businesses that are supplying jobs for the community, the hospitals etc, would have to go on alternative supplies? How do you tell them it's a functionally well-run operation?

Mr Heap: Since I wasn't here yesterday and I wasn't privy to the comments—

Mr Stewart: That's a fact, sir, what I'm telling you.

Mr Heap: I'm not able to speak for the person who spoke yesterday.

Mr Stewart: Again, I'm saying this person says that in his particular community there have been outages 23 times, from two minutes to 48 hours. How do you

explain to me or tell me that I could pass on to that community that Ontario Hydro is being run well right now?

Mr Heap: If it's not being well run, we need a public inquiry into how it's not being well run rather than transferring ownership to strangers who, as the financial interests in the United States have shown, have no care at all for the consumer.

Mr Stewart: It doesn't necessarily mean, sir—I don't want to be argumentative—that it's going to be sold to people in the States. Who has said that is going to be done? It's my understanding that one of the thoughts is that we would hold it open to Ontarians, for those who wish to invest. Unfortunately, there are some Ontarians who don't like to invest in their own province.

The Vice-Chair: Thank you, Mr Stewart. We'll go to the official opposition. Mr Conway?

Mr Conway: I will prudently pass.

The Vice-Chair: OK. Mr Prue?

Mr Prue: When you were giving this, I think you skipped the fourth page.

Mr Heap: I'm sorry.

Mr Prue: I think you did, and I just wanted to draw your attention to that, if there was anything within the next minute or two that you might want to say from that page.

Mr Heap: I appreciate that very much. Yes, in my hurry I stapled them wrong. What I failed to say was that you members of this government and Legislature did not build this yourselves, nor did your predecessors. You were authorized to act in good faith as their agent and ours. You neglected to tell the people and voters of Ontario during past elections that this was your plan. Even now, you've refused to put the matter to a referendum, however skimpy and hasty that might be.

Your lack of willingness to be questioned on it in a public way, rather than in a hurried two or three days of a few deputations, is evidence of your lack of possible good faith in dealing with the people, who are the true owners. You have refused to put the matter to a referendum, however skimpy. Such action without public knowledge or consent is irresponsible, but on such a grave matter which can affect the lives and even the deaths medically of many people, it will be stealing. I say it's a grave matter of life and death because the sale of this industry, as proposed by this government, will deliver it into the hands of persons and corporations who do not serve the interests of the people of Ontario, and we cannot make them do so when they are not even residents or having head offices in Ontario.

The person who questioned me before has chosen a tiny example of something that's wrong with the present system, but he ignores the huge damage wilfully done by such investors in the state of California. The same financial interests have many more billions of dollars to spend in capturing foreign assets, such as the power sources of Ontario, to use for their purposes somewhere in the United States. They will do it, not only because of their naked financial power but also by the terms of the North American free trade agreement, which gives

foreign investors immense power to force so-called equal treatment—equal for those who are strongest—bringing no protection to those who are financially weaker.

I ask you please to remember that the government of Ontario under previous administrations abandoned a long-standing commitment to bring in publicly owned and publicly administered auto insurance. They turned and ran from it for fear that US finance would use NAFTA against our interests. I've already referred to the federal government's failure to protect the health of people from unhealthy additives in gasoline—

The Vice-Chair: Thank you very much, Mr Heap. We've gone a few minutes over in extra time. We appreciate your coming in today to make your points well known.

Mr Heap: Thank you.

The Vice-Chair: Is Energy Probe here? How about the Canadian Union of Public Employees, or Clement Babb?

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CLEMENT BABB

The Vice-Chair: If you want to go now, Mr Babb, that would be great. Welcome to the committee today. You have 10 minutes to use as you please. You can talk the whole time or allow time for questions, whichever suits you.

Mr Clement Babb: Fine. Thank you very much. I intend probably to take about five minutes of your very valuable time. I have a couple of, to me, important things to say. My name is Clement Babb. I live in Burlington. I'm here today representing myself.

I want you to know that I think Bill 58 stinks, as well as the whole process on electricity which led up to today, from November 1995 on. I want to speak of three things. I'm sure I'll have time for two, and maybe a third if there is also time.

First, I want to tell you about three of my neighbours. Willard runs a small plumbing business, works hard and pays his taxes. Then there's Mary, a quite elderly widow who gets by on a modest pension. She pays her taxes; she pays her electricity bills. Floyd is a good man who works for Canadian Tire. All of these people are good people, and including myself, we pay our taxes and hydro bills.

We got together recently, and sadly only now just have begun to recognize how deeply we the people of Ontario are being put upon by the royals who run the provincial government. By "royals," I don't mean you people here; I mean the past and present Premiers, and ditto for the energy minister. We the people who live on our street are going to be hit with horrendous increases in hydro rates. How do I know? We did a poll and we hired a consultant and we know.

The second item I want to relate to you is that the present government has been such a monumental sucker for the public-private partnership thing. Actually, PPP, public-private partnership, is a terrible disease which is spreading across our land. Public assets and services

atrophy and the private sector cancer spreads. I have absolutely no problem with private enterprise etc. It is very necessary to our nation; it's wonderful. But private enterprise, especially major companies and multi-nationals, has its place, and we the public have our place. I don't like to see the private sector moving over, abetted by public officials, into gobbling up public assets and services. We the real people don't need the privatization of hydro. We don't need some British or German or American firm to "save" us; no, not at all.

I am thoroughly disgusted with the way the present provincial government has dealt with the future of electricity. You do know what's wrong, so just get out of the way of the people of the province and leave us alone. The people in Hamilton got amalgamated, and woe to those poor people. They got amalgamated because the provincial government would not stay out of the way, would not quit monkeying with something they had no competence in.

I urge you to recommend rejection of Bill 58.

The Vice-Chair: All done? That allows time for questions. Official opposition, it's your turn, if you would like to ask a question.

Mr Conway: In the time available, I don't think I'll begin something I can't conclude, so I will pass.

The Vice-Chair: You have a reasonable amount of time.

Mr Conway: I will pass.

Mr Prue: I hate to bite, but I'm going to. You said you conducted a poll and hired a consultant in order to come to the facts that you now hold to be true. Can you tell me who conducted the poll and who was the consultant?

Mr Babb: I'm not so sure I want to divulge that. That's a rather private matter. In the spirit of business discipline, I prefer not to divulge that.

Mr Wayne Wettlaufer (Kitchener Centre): Mr Babb, I'd like to follow up on what Mr Prue said. I think in the interests of us here in the committee trying to arrive at a solution, for you to come and say that you have conducted a poll and that you have hired a consultant—in public business it is only prudent that we would expect that you would be able to divulge your source. Failure to do so would be like me making an allegation of an opinion which I hold and saying, "I have received all kinds of support for this but I'm not going to tell you where I have the support."

Mr Babb: Yes, I understand that. It's a private poll. It's a private consultant who did the work. I don't feel I'm obliged, as is the case in many situations where persons are seeking information from government and that information which the public person thinks is important is not divulged.

Mr Wettlaufer: What I'm trying to impress on you is that your failure to reveal this, whether or not it's a scientific poll, a scientific consultation, destroys your credibility with the committee.

Mr Babb: So?

Mr Wettlaufer: That's not fair to you.

Mr Babb: I think I have to live or die with what I do and say, and I certainly agree with you, but I don't really feel that I would be—I'm just an ordinary person. I wasn't so sure that I would be received with a great deal of affection in the first place.

The Vice-Chair: Thank you very much, Mr Babb, for coming in to speak to us today.

CANADIAN UNION OF PUBLIC EMPLOYEES

The Vice-Chair: Is the Canadian Union of Public Employees here? Welcome. You have 10 minutes to use as you please. If you would please state your name, and then you may use the full 10 minutes to speak or allow time for questions, whichever suits you.

Mr Sid Ryan: My name is Sid Ryan. I'm the president of CUPE Ontario. With me is Judy Wilkings, the legislative liaison for CUPE Ontario. I hope you're not going to berate me the way you did the previous speaker just because he voiced an opinion that's different from yours. You will find that I too will make a presentation that completely differs from yours and I welcome the opportunity if one of your MPPs would care to try and berate our presentation.

CUPE Ontario welcomes the opportunity to present our views on Bill 58, An Act to amend certain statutes in relation to the energy sector. CUPE Ontario is the voice of almost 200,000 workers in this province, people who work for municipalities, utilities, hospitals, long-term-care facilities, schools, universities and social service agencies. I am also here representing the views of CUPE National, the largest union in Canada, representing over 500,000 workers across Canada, many of whom work in the energy sector.

This bill makes a number of amendments to statutes relating to the energy sector so that this government could manoeuvre around the successful court challenge to privatization by CEP and CUPE. The proposed amendments will, in essence, allow this government to sell off Hydro One. Additionally, they take away the power of the Ontario Energy Board to review the proposed sale of securities in a transmission or distribution company.

All of this flies in the face of the decision of Mr Justice Gans, which stated that this government did not have the authority to sell Hydro One, and it certainly shows this government's contempt for the justice system when they can't even wait for the decision of their appeal—just heard yesterday, by the way—before they change the laws to get what they want.

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Worse still, section 50.3 gives the Minister of Finance considerable discretion to grab large portions of money raised by the sale of Hydro One and divert it into general revenue.

With that in mind, I draw your attention to Monday's budget where Minister Ecker refers to increased government revenue for this year in the amount of \$2.4 billion from sales and rentals. Critics were quick to point

out that much of the increase would come from the sale of Hydro One assets. Since then, Minister Ecker has publicly stated that a portion of this \$2.4 billion will accrue from the sale of Hydro One.

I would like to begin by saying that I believe these committee consultations to be a sham, given yesterday's announcement that the Tories plan on selling off at least 40% of Hydro One in the near future by arranging either a strategic partnership or an income trust with private sector partners.

That being said, I am compelled to remind you that this government has no mandate to sell off any of Hydro One, that the vast majority of Ontarians are opposed to any form of privatization and that fully 87% of Ontario citizens believe an election should decide the future of public electricity in this province.

CUPE is warning Ontario residents they should not be fooled by promises by the Eves government that they will retain public control of Hydro One. We believe government plans to privatize all of Hydro One have simply been put on hold, not abandoned.

Public ownership of Hydro One is vital to the continued economic and environmental well-being of Ontario. We've heard this from prominent business leaders throughout Ontario since Mike Harris first announced the proposed sale of Hydro One.

Conservative electricity policies are already a proven failure. Deregulation is costing school boards, hospitals, businesses and individuals tens of millions of dollars in higher hydro bills.

Let me draw your attention to a recent statement by Frank Dottori, CEO of Tembec, a major forest sector company across Canada and in Ontario: "The cost of electrical energy in Ontario is one of the highest in Canada. The May 1 privatization has raised the cost of base power by as much as 15% to 20%. For a mill such as Spruce Falls or Kapuskasing this raises our costs by \$15 million to \$20 million per year."

Consumer Reports, which is one of the most respected consumer magazines in North America, recently slammed electricity deregulation, saying, "Broken promises, deceptive marketing and dreadful service have become accepted business practices." The report went on to contradict claims that private power is cheaper power.

Who hasn't heard the horror stories coming out of Alberta, New York and California? Rates tripling with deregulation, constant brownouts and governments having to pour billions into consumer rebates.

Similarly we saw all that happened just a week ago Tuesday when warmer temperatures caused hydro prices in Ontario to shoot up 1,630% from pre-May levels. Here's how it went: for a few hours on Tuesday, June 11, the price of electricity jumped to \$701 per megawatt hour. Later that day, the price fell to somewhere in the \$70 to \$80 range. Compare that to the \$32 per megawatt hour price of electricity between May 29 and June 4.

Need I remind you that before electricity deregulation Ontarians never had to worry about prices going sky high on any given day or hour? We never had to gamble on

the price we paid for electricity because we had a publicly controlled, regulated market.

What assurances do we have that continued deregulation coupled with the sell-off either in whole or in part of Hydro One will not cause these types of fluctuations to become a common occurrence in this province?

Let me also tell you about a situation that happened just recently here in Toronto, when a family who could not afford to pay their hydro bill had their services cut. Forced to cook on their apartment balcony using an outdoor barbecue, their apartment caught fire. Their six-year-old daughter who was trapped inside burned to death. This tragic accident should never have happened. That it happened in a relatively stable energy market should give us all pause for thought.

Across Ontario, elected councils representing nearly 5 million Ontarians have passed resolutions urging the province to stop the sell-off of Hydro One and to re-regulate the industry.

Similarly, farmers, small business owners and plant managers have all said that privatizing our energy system will destroy their livelihoods.

Additionally, seniors, retirees and those on fixed incomes are calling for a halt to privatization before they are pushed on to the streets. They are not talking about an IPO versus a 99-year lease versus an income trust. They are clearly saying, "Stop the sell-off of our electricity system. Close the market and reregulate the industry."

Over the past several decades, Ontario's electricity sector has been the subject of dozens of public inquiries, including a royal commission, special legislative committee hearings, various advisory committee reports and several in-depth environmental reviews. At no time was it discussed, let alone recommended, that public ownership and control of Hydro One be abandoned to private investors. In fact, all evidence points against this.

I urge you to instruct this government to abandon its plans to sell off Hydro One, to commit itself to reregulating the industry and to take up a call for a new, accountable public power system to ensure price stability, reliability and protection of the environment.

With that in mind, I will now take a bit of time and talk about each of these issues.

Accountability: At present, the province of Ontario is the sole shareholder of Hydro One, with the authority to appoint all of its board of directors. No statutory qualifications exist for board members, hence the government is free to appoint whomever it likes.

We believe that a board of directors appointed by the government but subject to review by a standing committee of the Legislature should govern Hydro One. Further, the qualifications of board members should be established by statute and reflect a diversity of interests, including those of consumers, environmentalists and labour groups as well as business.

At present, Hydro One has only an ill-defined mandate and is virtually free to set its own strategic direction and priorities. According to the vision of its current manage-

ment, those priorities involve aggressive expansion into US markets.

Hydro One must have a clear mandate that is firmly fixed on meeting the energy needs of all Ontarians on a not-for-profit basis.

In addition to its statutory mandate and a more representative and democratically appointed board, Hydro One's accountability should be assured by effective regulatory oversight by the Ontario Energy Board, which must be given an expanded mandate to not only review and set transmission and distribution rates, but also the authority to periodically review Hydro One's strategic plan.

Public ownership: Because of its critical importance to the well-being of every Ontario resident and business, Ontario Hydro must remain under firm public control. Moreover, public ownership is the single most reliable safeguard against foreign takeovers by the likes of Enron, which once courted Hydro, or Duke Energy, which is now patiently waiting its turn. Once privatized, any attempt to restrict foreign ownership would be vulnerable to challenges under free trade rules.

Currently, Ontario's electricity is exempted from NAFTA rules because it enjoys certain rights as a public monopoly. However, the sale of Hydro One will throw those rights out the window. Once we lose those rights, what guarantees do we have that Ontarians won't be forced to export our electricity to the south when there are shortages here in Canada? What guarantees do we have that Ontarians won't be left in the dark? Why should it be illegal to sell electricity produced in Ontario at a preferred rate to Ontario consumers?

Financing and debt: The province has said it would use the net proceeds from the sale of its shares in Hydro One to pay down Ontario Hydro's debt. However, as Mr Justice Gans stated in his decision, and as we now know, this government plans to use the proceeds of its sale of Hydro One to balance its budget.

Mr Eves says the money invested by new partners will go to pay down part of the \$21-billion debt hanging over this province. Not to be forgotten is the fact that this government created the debt problem it now claims to be solving when it liquidated Ontario Hydro. In its place, it established a maze of corporations, among them Hydro One and Ontario Power Generation. In the process, the government wrote down the value of Ontario Hydro's assets from \$38 billion to \$17 billion, leaving \$21 billion in stranded debt uncovered by assets.

It needs to be said that Hydro One always has and still continues to pay its own way. If the debt were really this government's major concern, they'd be much better off keeping Hydro One as an asset that generates hundreds of millions of dollars in revenue each year, which could then be used to pay the debt. When the debt is finally retired, they could use the revenue generated by Hydro One to pay for health care, education etc. In fact, this was what the government claimed it would do when it introduced legislation that created Hydro One.

The second major argument of this government for privatization of Hydro One is that the sale is necessary to

raise capital for system maintenance and expansion. We know expansion plans include expanding Hydro One's transmission system into the US markets. I ask you, how does this type of expansion serve Ontarians' needs?

In reality, the capital needs of Hydro One can be met by issuing bonds and debentures, which was the historical practice of Ontario Hydro and subject to a provincial guarantee. We all know the cost of capital is so much cheaper when borrowed by the public sector.

The Ontario Clear Air Alliance has said Ontario can get cleaner air by closing the remaining 50% of its coal-fired electricity generation stations. However, this means abandoning any plans to export power to the United States. Unfortunately, this government's privatization agenda means cranking up the coal plants to sell more power to the US. Our return is higher prices and dirtier air.

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CUPE would like to know what assessment, if any, has been carried out by this government on the environmental impacts associated with private ownership of Hydro One. At present, only publicly owned corporations are subject to Ontario's environmental assessment laws. Will private owners be free to site transmission lines and build new facilities without having to take into account environmental impacts?

We are surprised and alarmed that there has not been a major discussion about the privatization of Hydro One and the issue of climate change. We know that environmentalists have found it difficult to be heard on this issue. I ask you, will this government commit to this kind of consultation process?

We all know that the performance and reliability of Hydro One requires a highly trained workforce and adequate capital spending on maintenance. We also know that the typical way private corporations seek to generate better returns for their shareholders is by cutting staff, salaries and corners.

In conclusion, I would like to say that an issue of this magnitude requires extensive discussion across Ontario over an extended period of time, with a decision made by a vote of all Ontarians. After all, it was the people of Ontario who first voted to make Hydro public. As such, it should be left to the people of Ontario to decide through a vote on any move to change that public status.

The Vice-Chair: Thank you very much, Mr Ryan. We went a couple of minutes extra so there is not time for questions, but we appreciate your coming in today and making your statement.

TORONTO AND YORK REGION LABOUR COUNCIL

The Vice-Chair: Good afternoon. Could you introduce yourself, please. You have 10 minutes to use as you please, to speak, or if you want to leave any time for questions, feel free as well.

Mr John Cartwright: Thank you very much, Mr Chair. The Toronto and York Region Labour Council

represents 180,000 working women and men in the greater Toronto area. I am John Cartwright, president.

Our affiliates represent everything from public employees to construction workers, aerospace workers, teachers, manufacturing workers and hotel workers. We are concerned with Bill 58 for a number of reasons.

The first reason is one of principle, that is, the disturbing record of this government. Every time a law gets in their way or they feel they want to break that law, they merely come back to the Legislature and bring in another one that contradicts the law that's been before us. The notion that in a civilized society we would have a rule of law seems to be something that is no longer of any interest to those people running the show in this House.

The second piece is around the orgy of deregulation and privatization that's been imposed on the people of Ontario in the last number of years. On May 1, we got deregulation of the generation side of electricity and immediately public sector organizations in this city that provide thousands of jobs and provide services to millions of residents had to start budgeting for major increases in their electricity and utility costs.

The city of Toronto, for instance, recently had to budget a 15% increase in their hydro costs to deal with the anticipated rise in rates. The school board is in a similar position. Yet yesterday there were a thousand parents in front of the school board, talking to not only their trustees but also to members of the provincial Parliament from Toronto, asking them to do the right thing and stand up for the rights of kids so they can have programs and services, when one of the impacts that is affecting that board is an increase in utility and electricity costs that is coming on.

When you come back to that notion that there's only ever one taxpayer, it's very hard to understand how people who are so busy beating their breasts about cutting costs are merely passing costs from one pocket to the other, while passing on significant profits to the stock-brokers and those houses which will be handling any privatization of this asset or any others.

We look at some of the records that have been in front of us before—the secret deals at Bruce and the secret deals of Highway 407—and it's no wonder that working people have very little faith that this government is interested in doing the right thing on any of these kinds of issues.

There is no mandate. This government has never gone to the people saying they want to sell off Hydro One or the transmission lines, and in fact when we look at the idea that the money is not going to be used to pay off the debt Hydro had accumulated before but is going to be used to balance the general budgets, and we look at the squandering of billions of dollars in corporate tax cuts that have taken place and are going to take place after the brief lull and I suppose the election is over, then we understand very clearly that you've burned half the furniture in the house now for heat to keep up with your budget, and as soon as there's an election and it's over this government would very gladly go back and sell the

rest of Hydro One in order to raise the revenues it needs to squander more money on corporate tax cuts.

The basic industrial needs of this province require stable electrical prices. So for those workers who work in the manufacturing sector the idea that their employers would be facing double-digit increases in hydro costs is yet one more pressure that will be added to make it harder for them to have decent jobs with decent wages and security of those jobs. That's not usually an issue for this government either, because one of the elements of changes of labour laws of course has been to try to drive down salaries and incomes of ordinary working Ontarians. It's interesting that the United Way of Greater Toronto recently put forward their study, *A Decade of Decline*, where they looked at the incomes of people in Toronto over the last 10 years. In spite of the huge economic boom that we had in Ontario in the late 1990s due to the auto industry and the US economy, the average income of two-adult families dropped 14%—\$7,700—and the average income of single-parent families dropped 17%. Those are very real realities, and it actually happened even in Scarborough as well as downtown Toronto, as well as Rexdale.

The element of this is that the same people who are telling the public this, be it your government or your members of provincial Parliament or some of the Bay Street folks who are more than anxious to get on with this orgy of privatization, are the same folks who told us some time ago that free trade was going to bring up the standard of living for all. On the other side, the labour movement and popular movements that were objecting to the privatization of Hydro One were, back in 1988, predicting that the kinds of measures that were being brought in through a free trade agenda were going to decrease the standard of living of ordinary people—men, women and children.

On the question of what this government wants to do, I'm not sure that anybody who sits here is going to persuade this government to move from its agenda. I don't think that's what this government has ever done. The fact that 70% of Ontarians oppose privatization, and specifically the sale of Hydro One, doesn't matter. We've come to a situation in Ontario where we have an election and then we have four years of dictatorship, and that has been what working people have seen around labour relations changes; employment standards changes; what has happened with the forced amalgamation of municipalities against their will; time and time again the downloading on our schools, which is not acceptable; the downloading on our municipalities; the arbitrary reduction of vital funds for transit; the gutting of environmental protection and the policing of environmental laws. All of that adds up to an agenda which quite frankly is something that does not work in a modern society and something which people are starting to draw their own conclusions on.

The final conclusion that was presented in the excellent brief just before me by the Canadian Union of Public Employees, requesting that this bill not be passed but

rather that the issue be put to a public vote, is a very sound suggestion.

Back at the turn of the last century, when people from all walks of life, including humble construction workers and industrial barons, realized that public power at cost was an essential piece of any kind of industrial strategy, we had the wisdom to go to the people and ask them if they thought that was useful or not useful. This government, although they'll probably spend millions of dollars of our own money on partisan advertising beforehand, one of these days should go to the people on a specific issue like this and ask whether or not that is in fact the will of the people of Toronto.

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From the point of view of the Toronto and York Region Labour Council, we'd have to say that this bill is wrong, that this government should obey the rulings of the courts rather than trying to undo laws that it decides it doesn't like, that the completion of the privatization of the hydro system will bring greater costs and greater hardship on to our industrial and manufacturing base, which is not helpful just when the Auto Pact is being removed and medicare is under attack. That's not helpful.

In terms of the consumer, when we see that after the initial offering is made and the rest of Hydro One is sold off in order to pay for your squandering of money in corporate tax cuts, then consumers will be looking at massive increases themselves, as they have in many other locations. As the newly privatized corporations will seek to sell hydro to the highest bidder, and at this point in time it's all south of the border, it will leave the people of Toronto and Ontario with a not very bright future. That's my presentation. Thank you.

The Vice-Chair: Thanks very much, Mr Cartwright. That uses pretty much all the time up, so thank you for coming before us today.

CENTRICA NORTH AMERICA, EPCOR AND ONTARIO ENERGY SAVINGS

The Vice-Chair: Are Union Energy, Ontario Energy Savings Corp and Direct Energy here? Welcome. You're using your time together, so you have half an hour. If you could please state your names for Hansard, use the time as you wish. You can use it all in your speech or you can leave time for questions.

Mr Deryk King: Thanks, Mr Chairman. We would aim to make brief submissions individually and leave adequate time for questions at the end, if that's the way you want us to deal with this.

The Vice-Chair: That's great.

Mr King: I'm Deryk King. I am president and chief executive officer of Centrica North America, which is the parent company of Direct Energy Marketing Ltd. Direct Energy is one of several energy retailers that have submitted a joint proposal for amendments to Bill 58, and we welcome this opportunity to give input to the standing committee.

We are concerned about the haste with which these consultations have been conducted. In our view, the

absence of more extensive consultation is unfortunate, because we believe passionately that proper consultation would lead to a better bill and better regulation.

Our recommendations are incorporated in the retailer group proposals, which we've submitted separately, and there's no need to reiterate them in detail here. But I would like to add a few comments from the perspective of my parent company, Centrica, which has very extensive experience of market opening and deregulation in the UK, Europe and North America.

I want to say that we clearly recognize the role of fair and transparent regulation in reinforcing customer confidence in the opening of the markets and in paving the way toward a strong, viable retail energy industry. We've seen numerous instances where the regulatory regime, for better or worse, was the deciding factor in the success of managing market openings. But we believe that the bill as it stands would run counter to the interests of Ontarians. The bill would undermine consumer confidence in the market and be detrimental to the functioning of the retail energy sector.

I'd just like to spend a few moments elaborating on why we think that's the case. First, the vast majority of customer contracts in this industry have been solicited in an ethical manner, with the customer's full knowledge and understanding of the contractual terms and conditions. So in our view, the burden of reaffirmation stipulated in Bill 58 would confuse and in some cases irritate Ontario consumers and potentially cause many of them to doubt the wisdom of the decision they've taken.

Second, many of these contracts were consumer-initiated; in other words, the consumer approached the retailer through its Web site or through one of its booths in a shopping mall, or by telephone or in response to a mailing. In such instances, where a consumer has taken the initiative, they would find it extremely strange to be asked to reaffirm a decision taken independently by them, and would probably lead them to ask themselves, "If the contract I signed was legal and proper, why am I being hounded and asked to sign yet another document reaffirming it?"

Third, this need to reaffirm, in writing, a legal customer contract is entirely outside the normal experience of Ontario residents. When we sign an apartment rental lease, a mortgage, a car lease or a deed of sale, there is no need for further validation. To single out the energy sector for such further validation will sow doubt as to the strength and integrity of the original contract. It might raise concerns about the company with which they entered into it and might cause consumers to question the integrity of the open market itself.

Fourth, we believe these proposals will increase costs considerably for retailers, costs that will squeeze our already thin profit margins and force retailers to consider raising prices. No one emerges a winner in that scenario because these are costs that are not associated with a value to the consumer. This is an unsustainable situation and will lead to a loss of business. In the end, more people will be encouraged to play the market with energy

prices and stay with a utility. Those with lower incomes stand a chance of being disproportionately hurt by extremely volatile prices.

Finally, Bill 58 raises risks for homeowners, because those who signed contracts did so with the expectation that they would receive price protection for the term of the contract. If that contract is subsequently voided because they neglected or forgot to reaffirm it in writing, we might have a situation where many customers, in the expectation of stable prices, budget accordingly and then find themselves at the mercy of the market. Customers generally are not accustomed to having to ask twice for a service when they've made a decision.

We believe our retail group proposals address these concerns and also achieve two further important goals. We think they provide a distinction between contracts initiated by the customer and those that were not, and we think the proposals also make it simpler for a customer to reaffirm their contracts in a manner that is more familiar to them and consistent with their experience in other industries. For example, customers switching long-distance telephone companies generally do this through a validated telephone system, with their responses being taped and becoming the official record of the reaffirmation. That telephone model works extremely well and is familiar to millions of residential phone customers who switch suppliers.

We have taken independent advice on our proposals. We asked John Todd, president of Econalysis Consulting Services, to vet our proposals. John Todd is a distinguished regulatory economist who has frequently given evidence, usually on behalf of consumer groups, to regulatory tribunals. John Todd's conclusions are captured also in a letter that we've submitted. His conclusions are that the retailer group proposals are reasonable and appropriate.

He states that "the proposals provide a balance between costs and consumer protection that leans much more in the direction of consumer protection than comparable requirements in other industries in Ontario, or comparable requirements in the natural gas industry in other jurisdictions."

Centrica has invested over \$2 billion in financial and human capital in Ontario. We employ more than 2,000 Ontarians full-time, with a total payroll this year of over \$100 million. This investment reflects our deep commitment to the success of the province's energy market. That's why we're here. We believe the legislation, as proposed, will impair not only our confidence in the market but also the confidence of other businesses that may be contemplating significant investment here. We urge the government to accept the retail group proposals regarding the proposed consumers' bill of rights. We believe this will yield better legislation all around: better for the consumer and better for the retailer.

1700

Mr Mike Andrews: Good afternoon. I am Mike Andrews, vice-president of retail energy with Union Energy Inc. I am pleased to represent Union Energy,

EPCOR Utilities Inc and Ontario Hydro Energy, as well as Onsource. EPCOR Utilities, our parent company, is a Canadian-owned integrated energy company with assets of \$4 billion and 1.6 million customers.

There are four key points I would like to make today. While we fully support the government's goal of seeking the best protection for consumers and the best solutions for an open and healthy energy market, in our view the consumer protection measures being proposed by the provincial government in Bill 58 will not achieve the desired results. In fact, they will dramatically increase the complexity of retail energy contracts for consumers; substantially increase retailers' costs, leading to higher consumer prices; discourage future investment; and ultimately decrease competition to the extent that the Ontario retail market could deteriorate.

Before proceeding, though, I would like to acknowledge and applaud the government's success in introducing competition to the Ontario electricity market on May 1. Deregulation and competition work.

As you know, the gas market in Ontario has been open and deregulated for 10 years and has worked extraordinarily well to protect consumers from commodity price swings. If you looked at consumers who signed a fixed-price contract in July 1999, they would have saved an average of \$600 to date. If you look at the 1.5 million consumers who have signed up for fixed-price contracts, that adds up to millions of dollars saved for Ontario consumers.

However, the consumer protection measures in Bill 58 will, as I've said, obstruct market development, reduce the benefits and choices available to consumers and scare off investment.

The proposals in Bill 58 are too complex for consumers and retailers. For example, when a customer signs a new contract, it is rendered invalid unless "reaffirmed" by the consumer. Essentially, they re-sign the same paperwork they have already signed and send it to us again. They have 30 days in which to reaffirm, but they cannot reaffirm until after they've had the signed contract in hand and waited for 14 days. If they want to "not reaffirm," they can do so at any time within this 30-day period, although it's not clear from the bill whether they need to sign anything to not re-affirm, or if they can just forget to mail back their re-signed contract and automatically be "un-reaffirmed." It sounds more like a Laurel and Hardy "Who's on First," as I read that.

Mr Prue: That was Abbott and Costello. I'm a fan.

Mr Andrews: Abbott and Costello? I'm sorry; I apologize for that.

The margin for error and confusion this creates is obviously unmanageable, costly and unprecedented in any other industry. The complexity could lead to higher consumer energy prices and consumer confusion that is a further disincentive for consumers to participate.

The 30-day waiting period on new contracts creates more uncertainty in the volumes of power the retailer must hedge. Added uncertainty demands added protection in managing their supply portfolio. They need to

protect against an ambiguous market. It increases their expenses, eventually leading to higher prices. It also inhibits the effective operation of a competitive market.

Added confusion will also mean that a significant percentage of customers, believing they have signed up for the protection of a fixed price, will inadvertently fall through the cracks by not specifically reaffirming their decision within the designated time slot. Far from supporting competition, this will result in higher volumes of consumers defaulting back to LDC supply, increasing the volume and cost of transactions at the utilities and, again, leading to higher prices for the consumer. Management of utility supply portfolios will become more complex, with increased uncertainty, and therefore more expensive.

A key goal in opening the Ontario market to competition is to stimulate investment in infrastructure and attract investment from other market participants. Markets are most efficient when they broaden and include more participants. The broader the participation, the better the market. The proposed new measures will compromise this goal and actually decrease competition by making Ontario's energy system far less attractive to investors and stifling incentives to new participants.

To date, EPCOR has made a significant investment in Ontario: \$177 million to purchase Union Energy, recently the purchase of the retail assets of Hydro One, as well as an option to secure a 50% interest in 650 MW of power cogeneration in Sarnia.

Like any prudent investor, we assessed the value of these investments based on known economic conditions in the market. Certainty with respect to government policy direction and the regulatory framework are key factors for any long-term investment in this market.

If the proposed new legislation were already in place when we were making these assessments, I believe our decision easily could have gone the other way. These new measures could create barriers to entry for future market participants that may cause them to take their investment elsewhere. The unusual and onerous requirements they would face in the Ontario market compared to other jurisdictions simply make Ontario a far less attractive place to invest.

The power of the proposed legislation to undermine the viability of the open market has far-reaching implications. In EPCOR's view, the unnecessary costs and uncertainty that will result from the proposals in Bill 58 jeopardize the viability of a competitive retail market and a competitive generation market.

There is, however, an alternative to this onerous legislation. Retailers, representing the vast majority of Ontario energy customers, are jointly proposing alternatives that enhance consumer protection, provide greater choice and flexibility and support the government's objectives at an effective cost.

Our proposal, attached to this submission, deals specifically with the issues that arise from door-to-door sales, meets contemporary consumer requirements for convenience by providing choices and provides a higher

level of consumer protection than in other industries. The proposal also has the endorsement of John Todd, a well-known consumer advocate with years of experience in the energy industry.

We would urge you to consider these proposals in the light of consumer interest and undertake a more open consultation process regarding Bill 58 before the potential to impair this evolving market happens.

In conclusion, I would like to stress that EPCOR and its subsidiaries are committed to working with the government, the Ontario Energy Board and our peers in the industry to ensure the continued successful evolution of the competitive market in Ontario to the benefit of consumers. In particular, we make ourselves available to participate in the development and drafting of all regulations to be issued after Bill 58 is passed. A strong, competitive electric market is the foundation to providing choice for consumers, attracting investment and creating jobs in the province.

Ms Rebecca MacDonald: Good afternoon. My name is Rebecca MacDonald and I am president and CEO of Ontario Energy Savings, the second-largest marketer in the Ontario natural gas industry and a recent participant in the deregulated electricity market. I am pleased to share this panel with our competitors, Centrica and EPCOR.

First let me congratulate this and past Ontario governments of all three political parties. I have operated in the natural gas deregulated industry in Ontario since 1989. Our gas market is a worldwide model for the effective deregulation of the residential commodity market. I have operated in the United Kingdom and have seen attempts to deregulate in the United States and Australia. There is no market where the small consumer has seen greater benefit or where they have been provided with greater true choice.

As we move carefully toward a similar deregulation of electricity, I would like to compliment the process which has seen the basic framework evolve very similar to that of natural gas. Bill 58 reinforces the commitment to the deregulation process and will contribute to the protection of consumers as the market grows.

My company, Energy Savings, has approximately 400,000 residential and small commercial customers in Ontario under contract and we add more than 10,000 new customers every month. Why do so many people choose to sign long-term contracts? There are two reasons: security and savings.

Our customers gain peace of mind in knowing that their gas commodity cost will not increase over the term of their contract. When our first customers signed about five years ago, the Consumers Gas floating price was 6.5 cents per cubic metre, and the proposed price for July 1 is 20 cents a cubic metre, which represents a triple increase in less than five years. Commodity prices, especially electricity prices, are extremely volatile. Prices can go up sharply during spikes, and deregulation provides the opportunity for the small consumer to protect against these increases. They can easily budget their energy

costs, knowing that a large expert company bears the risk of purchasing gas or power on their behalf, taking advantage of price options they could not access. Like a fixed-rate long-term mortgage, they face no risk of price spikes over the five-year period.

1710

We buy the vast majority of our gas from an affiliate of Shell, perhaps the only AAA credit-rated company in the energy field today. Whether gas prices go up or down, our clients have a completely secure gas supply at a predictable price they can manage, and they have saved. As is highlighted in our annual report, our gas customers saved \$51 million during 2001 by switching to Energy Savings, away from their local utility's floating rate price. This was a saving of more than \$248 per customer, an amount that is obviously very material to the average Ontario family.

The customer can only continue to reap these benefits if the system allows the cost-effective provision of a long-term alternative. While we fully support consumer protection, regulation with good intent can add so much to the cost that the customer is in fact hurt by their enforcement.

I would like to briefly describe to you how Energy Savings protects its customers today.

(1) The industry and the OEB have developed recommended disclosure, included in all our contracts, which clearly spells out what the customers are buying and what they will be paying. The customer must sign the contract.

(2) Over and above this signed contract, we then require that all customers sign the acknowledgement we have attached to this submission, which again spells out in the clearest possible terms what they have bought and whom they are buying it from.

(3) Within 10 days of signing, we call every customer to ensure they signed the contract submitted and that the agent did not use misleading or high-pressure sales tactics.

(4) Prior to flow, we send a letter to the customer again explaining the contract and clearly providing our phone number if there are any questions or concerns.

(5) At the same time, the local utility sends a separate letter indicating that the customer is leaving the utility floating rate and signing on with Energy Savings, again including our number for any questions.

(6) Finally, the first bill after the flow clearly spells out that we are now the supplier and again gives our number. Following receipt of that bill, if any customers believe they did not understand what they signed up for, it is our policy to release those customers from their contract at that time.

If this is the case, the question is, why does it seem that we are having so many complaints? I understand from the OEB that in the last year they received 4,800 calls that were registered as complaints. In my view, that is 4,800 too many. At the same time, our agents alone contacted more than a million residential gas customers, and the industry as a whole contacted probably many times that number. That places the complaint-to-contact ratio at less than one tenth of 1%.

As part of our package, we are proposing that all agents be subject to industry standard training and accreditation. This should further reduce complaint levels.

Our industry has proposed a framework going forward for reconfirmation and renewal of customers which is attached in my submission. I think the proposal is entirely consistent with the protective intent of the bill and will reduce the volume of complaints received. What it will also do is limit the additional costs that must be borne by customers from that protection. These costs were highlighted as the bill's greatest weakness, both by the Toronto Board of Trade and the Ontario Energy Association in their submission to the committee. I understand that the intent of the government is to ensure that the new electricity market will be as effective for the customer as the natural gas market has been. Energy Savings is committed to any steps that will reasonably move us in that direction. Thank you very much for your time.

The Vice-Chair: Thank you very much. That allows time for questioning.

Mr Conway: I thank the presenters. This certainly takes us to the core of a very important aspect of not only Bill 58 but the entire electricity marketplace. My submission has been from the beginning that electricity is a commodity that is qualitatively different from the gas business. Not everybody agrees with me, and I don't expect they will.

I don't know how to say this politely, and I'll try to be polite. I have been in this business a long time and I'm fairly close to my constituents. I have had some pretty good experience and I think I can understand varying degrees of anxiety, upset, frustration. What I have personally encountered over the last number of months about the kind of retailing of electricity products in my part of eastern Ontario is remarkable, because if 10% of what I'm hearing is true, we have a bigger problem and you have a bigger problem than any of us might like to imagine. I hope I'm wrong.

One of the things I would like to do, quite frankly, is to park this until about the middle of September, because we will know a lot more in August and early September, when those post-May 1 retail bills get out there. I hope I'm wrong. They're not all bad, I think it's fair to say, but the behaviour of these marketers has been outrageous.

I've got a colleague from down the highway in eastern Ontario who tells me and tells the Legislature that he and his wife not once but twice have been subject to out-and-out forgeries, and several of his constituents in that part of southeastern Ontario have had the same problem. I've got an 85-year-old father who signed a deal with Ontario Hydro who's not very happy now to find out, a few weeks after he signed the deal, that the contract was sold to somebody he's never heard of in Edmonton. Now it may very well be that that turns out to be an OK thing for him, but he's not very happy to think that a crown company did that to him. His trust in the efficacy of this whole operation has been substantially diminished.

As I say, how big a problem we've got I don't know. Are all the marketers bad? Clearly not. I'm assuming that of the 750,000 to 800,000 contracts for electricity that have been entered into—and I'm discounting it by 15% or 20% for the duplicates and triplicates that are out there—I'm guessing that 150,000 to 200,000 are bad-news bears. If I'm right and those 150,000 or 200,000 bad-news contracts are aggregated in 30 or 40 or 50 electoral districts, I don't want to be the minister of consumer protection or the Minister of Energy, or I don't even want to be the local MLA in September, in October, because that will probably mean 3,000 or 4,000 or 5,000 people in suburban Ottawa or suburban Toronto are not very happy. We won't know until those contracts actually land on the doorstep.

1720

I understand entirely the government's desire to tighten the consumer protection aspects of the current situation. We were warned that we had better go about this retail competition with great care: make sure that you not only license these marketers but that there's a standard contract that everybody understands, that there's a very tough regulatory oversight, that the bad-news bears are nailed early to discipline the market. Most of that didn't happen. I'm now reading in the financial press and elsewhere some very high-priced mea culpas.

The Vice-Chair: Mr Conway, are you getting to a question here?

Mr Conway: Well, I guess I'm going to just end with this. You've provided us—

Mr Steve Gilchrist (Scarborough East): I'm prepared to give Mr Conway our time—seriously.

Mr Conway: I hope I'm wrong, and I appreciate what you've brought to us today. I'll look at it very carefully. My problem? My problem is, I'd like to wait for the jury to come in three months from now. I'm really, really nervous about doing very much until I find out the nature and the extent of the problem I've got out there. I hope and pray it's a lot less than I think it is.

Ms MacDonald, your submission around what your company's done looks very good. I would that that had been going on elsewhere. It appears from my anecdotal experience, and I've had more calls and visits—the number of older people who have been hoodwinked, the stories, particularly from senior citizens in my area, are just unbelievable. That we haven't had more real trouble is beyond me—people walking in at dusk wielding scissors, going up to 75-year-old widows and saying, "Give me that bill." Snip, snip, snip, and out the door they go, some of those people representing the crown corporation, the old Hydro One.

My sense is a lot of people won't know exactly what they've done until August and September. I certainly will look at this submission very carefully. I appreciate your coming here. But let me tell you, the aspects of this bill that you are concerned about didn't happen by accident. There has been a scandalous misconduct in the marketplace by too many ruthless, unscrupulous marketers that our energy board licensed, the results of which are yet to

be fully understood by this Legislature. So I appreciate the submission. I will look at it carefully. I just hope you understand the problem that many of us have, not yet knowing just how big a time bomb sits on our front porch on this matter.

Here endeth my comments. I have no real question. I might want to talk to these people afterwards once I have a chance to look at what they've provided.

Ms MacDonald: We'd be happy to answer any of your questions later, if you'd like to ask them.

Mr King: May I have time to respond to that, Mr Chairman?

The Vice-Chair: Yes, you may.

Mr King: Mr Conway makes his points eloquently and comprehensively. I just want to make three brief points in response. First of all, the vast majority of consumers who have signed electricity contracts in this province will benefit from fair, stable, attractive prices—the vast majority.

Second, however, we recognize the need for improvement in direct sales agent behaviour, significant improvement, and all of us and other competitors have been working very closely with the OEB to draw up a code of conduct and make it live in reality so that we don't get the level of complaints that we've had.

Third, we all have a passionate desire to root out dishonest and fraudulent behaviour as soon as we become aware of it. In our case, and I think my colleague's case here, we refer all cases of fraudulent or alleged fraudulent behaviour to the police and deal with it in that way.

Mr Conway: Maybe a quick response to that would be—and I haven't had a chance to look in some detail, but I quite like the submission that you made, Ms MacDonald, where people, if they feel there was some confusion or misrepresentation, there's an option for the customer just to bail out. How does the panel feel—and perhaps your detailed recommendations touch on this; I haven't had a chance to look at them—about some kind of an amnesty for people who just feel that they didn't understand or that there was some confusion and they're just not comfortable and they want the right to exercise the kind of option that obviously one of you has provided in the past?

Ms MacDonald: Yes, I would just like to clarify. My company has only been involved with natural gas deregulation. We just entered the electricity market. We made a choice not to do any pre-signing, so I'm not going to make a comment on electricity. I really believe it would be worthwhile looking at our proposal because we have addressed very comprehensively how we would deal with the customer on an ongoing basis, electricity and gas customers, who feel that they have not been properly informed after a number of steps that we propose to take with the customer, even after they receive their bill. I think that has been addressed in a very similar manner to the way my company operates today.

Mr Conway: Again—I'll use you, Mr Andrews—you bought 195,000 electricity contracts from Hydro One.

Mr Andrews: Correct.

Mr Conway: One of my questions is, I wonder how many of those people would have signed, knowing they were about to be flipped to another company. I don't doubt that many might have, but I know for several the only reason the marketer got in the door was that they were wearing the old Ontario Hydro insignia. It may very well be that it's going to be an OK deal, but I'm telling you, I just look at people and some of them—my father is not a very happy man because he thought his deal was with Ontario Hydro, and several like him, I suspect, although I don't know. That's at the very moderate end of the problem. With some of these other people I've talked to, if anything of what their complaint seems to suggest is true, then I'm going to want to have some kind of option for them or I am going to have some pretty unhappy constituents around about election time, I might add.

Mr Andrews: My belief is that EPCOR brings experience to the marketplace. It has experience in the Alberta deregulation market. Because of our size and experience, we'll be a benefit to Ontario and to the Ontario consumers who signed up.

Mr Conway: But you got those fish in the pot under a set of circumstances that, from the point of view of people signing, weren't altogether clear and fair. I don't doubt what you've said, but I'm looking at it as a customer. I signed a deal with Hydro—

Mr Gilchrist: I think they've been given a right to opt out, have they not?

Mr Andrews: We're in the process of communicating with our customers at this time with a welcome letter explaining the transfer in ownership and the options they've made. Customers are being given a 15-day period to terminate their contract without cost if they so choose.

Interjection.

Mr Conway: Go ahead and pursue that.

Mr Gilchrist: Sean, I thought it was important because you have raised the example of your father on a number of occasions. I think it was fair to EPCOR to allow them to put on the record that for people like your father, clearly the message has been heard. Presumably he will have an opportunity to reflect now on the options facing him and whether or not someone other than Ontario Hydro would have the faith that he needs to have in his supplier.

I would just say as a very brief comment, because we did say we would give our time to Mr Conway, that we are sympathetic, as a former retailer, to the demands that this process, as articulated in Bill 58, would place on you. I think there have been some good suggestions offered here today and also in our meetings with folks like Toronto Hydro and other retailers. We will certainly reflect on those. If there's a way to find a balance that still protects against the behaviour that Mr Conway and his colleagues have certainly seen in eastern Ontario—I must admit, Sean, I have not seen the same thing in Scarborough.

Mr Conway: That's good. I'm glad to hear it.

Mr Gilchrist: But I'm not going to be blind to it. It may be that we just haven't heard about it. But I think we need to find a point of balance that recognizes the ability to use the most up-to-date technology. Maybe there's fax or e-mail or other electronic means to accelerate and facilitate any kind of confirmation, while at the same time ensuring that if there are instances of any kind of inappropriate behaviour, people have an opportunity to reflect on that, and not when it's too late. So I appreciate your comments here today and those of your colleagues that have been made directly to the ministry. We certainly will be reflecting on them these next few days.

The Vice-Chair: Thank you very much for coming in today to speak to our committee.

Mr Conway: Steve has raised a good point. Norm, just for the record, can we get the rep from Direct Energy to speak to their policy on a cancellation provision? They've given us important testimony that we're going to have to consider. I appreciate the clarification from EPCOR on their policy. I'd like to know what the Direct policy is on a similar matter for an opt-out provision.

The Vice-Chair: We can take one minute to do that and then we have our next person ready.

1730

Mr King: I'm happy to answer that question. Our policy is that consumers can cancel their contracts within 10 days of signing for any reason whatsoever. Beyond that, we regard the contract as binding. I want to make two points about this proposition that customers should be given an "amnesty," I think was one word used. First, I think it is frankly irresponsible to implicitly or explicitly encourage customers to opt out of fair, reasonable, protective contracts of the sort that have been signed. Second, Direct Energy signed up over 600,000 customers. We have bought the electricity for the next three years to supply those customers. If we provide an amnesty and 100,000 opt out, what am I supposed to do with that electricity? Is the government going to compensate me for the losses I will sustain?

For those two reasons, I think this is a dangerous and slippery slope that we should not go down.

The Vice-Chair: Thank you very much for coming in today. We appreciate it.

TOM BAXTER

The Vice-Chair: Our next presenter, Mr Tom Baxter, is coming via video conferencing from Thunder Bay. Tom, can you hear me?

Mr Tom Baxter: Yes, I can. Can you hear me?

The Vice-Chair: Good stuff. You have 10 minutes to use as you please. You can either deliver your message the whole time, or if you want to allow time for questioning as well, all three parties are represented here. So feel free to either use the full 10 minutes or allow time for questions.

Mr Baxter: I have about five minutes' worth. I'm Tom Baxter. I'm a citizen of Thunder Bay. I have lived in Ontario all my life.

I'd like to pick up a few points from the written submission I faxed this morning. I'd like to draw attention to those and elaborate on them, not necessarily in the order in my submission.

I want to restate what I said this morning. In my opinion, Bill 58 needs to be rewritten to ensure exclusive ownership and control of transmission by Ontarians.

The second point is that all existing components of the generation system need to be retained, contrary to the direction in which we've been heading, and reamalgamated with Hydro One to recreate Ontario Hydro.

I believe that any provision for private contributors to enter the grid must be done in a way that meets the needs of Canadians and Ontarians by having those who own these operations and contribute be Ontarians by residence and citizenship. We need to exclude all foreign involvement in any possible way.

I feel that past abuses need to be punished without loss of public ownership or control. I believe that a long history of fiascos has been documented by different people, going way back to the Fidinam affair. These things require some measure of redress to help deal with the needs of Ontarians, particularly the money that was lost through a number of these activities.

In my opinion, the marketplace does not have discipline, as is so commonly claimed in this process. I think it has manipulation, greed and winner-take-all. As I said in the written submission, my experience in watching what happens is that individual companies do very well and become very wealthy, and the alternative is that many others lose. The victims in the process are usually the consumers or the users.

Furthermore, I believe we should eliminate foreign borrowing, which had a lot to do with the debt load that created the present issue. I think there have been a lot of attempts to ignore the facts behind foreign borrowing and the money that was used to create nuclear power development in the first place. It totally undercut the financial stability of this whole process and of this agency that was called Ontario Hydro.

So I believe this has to be reversed. There are a number of creative ways you people in the Legislature are able to use in terms of developing internal sources of funding: various debentures, bonds, tax credits. A number of these were used in different forms by the Whitney government, when Ontario Hydro was created by Conservatives in the first place. I think it's time that some history be appreciated by members of the Legislature and that there be a serious attempt made to rediscover some of those facts that were important at the time.

My concern is to reduce the cost of nuclear power. We need to get rid of that high cost, high risk.

I see my time is going on. I just want to emphasize two or three key points as I continue. One is that the system worked in the past for Beck. It made a profit. From the material I've read, I understand that it still makes a profit in transmission. It would pay down the existing debt if it were allowed to continue with the process of redress that is presently going on, but it needs

to be done from within the public sector and public ownership.

The bill talks about a number of changes to several other acts, existing legislation, including the Lakes and Rivers Improvement Act. There are both pros and cons of doing that, so my feeling is that there needs to be some comprehensive planning that involves a variety of things. This needs to be put into Bill 58 to say that the whole process is going to be reconsidered before this bill goes through the final reading, that there would be some major rewriting going on, some amendments, and particularly that there needs to be a balance between the interests of private contractors who want to build operations versus those who are making money from the service end to their own benefit and I don't believe to Ontarians'.

Ultimately, further hydroelectric development has to take into account the effect of dams on waterways, on the fish population, on ecology and recreation. There is an opportunity to make new dams and to provide more hydroelectric power, as was done around 1900 with the Beck process. At the same time, there is a high risk of environmental damage, and people who seem to have some knowledge should be involved in working with that.

Finally, I wholly endorse the idea of wind farms and solar as alternative power sources, but I believe the bulk of that needs to come from within the public hand. Keep the public hand on the switch, as Sir Adam Beck said.

Those are my main points of emphasis.

The Vice-Chair: Thank you very much. It's time for the third party to question.

Mr Prue: In your document, in number 10, you talked about, "Invest in research in Ontario, by Canadians, into safe usage of nuclear generation," and it goes on from there.

Many people are attempting to get out of nuclear power due to the costs. I guess probably the reason that Ontario Hydro, Hydro One, is in debt to a large extent is because of the nuclear experiment in the last 20 years. Do you still see this as an appropriate tool whereby we should be investing in additional nuclear power in Ontario, or should we be running away from this as fast as we can?

Mr Baxter: As I said a minute or so ago, and also it's in the same document there further up, I actually believe the future is primarily in hydroelectric power and in alternate methods like wind and solar where investment can be relatively low-cost and the returns can be higher. I would agree with you that nuclear power is suspect. It's high-risk and high-cost. I also fully endorse the fact that it put us into debt to develop nuclear. So I'm not endorsing the idea of spending more money on nuclear. I'm suggesting money needs to go into research to see if the existing system can in any way be improved and made more safe. I have my doubts, but I put that point in to acknowledge there is a possibility that nuclear could be made more safe with new science that has not yet been done.

The Vice-Chair: On the government side?

Mr Gilchrist: Thank you, Mr Baxter. I appreciate your availing yourself of this process. We're very pleased that we can get as far as Thunder Bay in the nanosecond or two that it takes to send the message back and forth, and at considerable saving to you as a taxpayer rather than having 13 of us fly up there to listen to your comments. I sincerely appreciate your taking the time to be a part of this.

I too am reflecting on your 10 different points. I would give you some comfort, hopefully, by telling you that in number 5, the actual transmission rates continue to be regulated by the Ontario Energy Board. There's nothing in this legislation or any other plans the government has to change that, so the actual profit level that anyone would have in owning the transmission grid is not something they control. They can control their costs, but they can't control their revenue. That would continue to be fixed by the OEB.

I too am struck by your references to nuclear power and I would encourage you, if you get a chance—you've prepared a very thoughtful presentation here—to go on to the Legislative Assembly Web site. You may be aware that we had a select committee on alternative fuel sources and that we were up visiting Thunder Bay, in fact, just a few months ago. One of the recommendations we put into that report was that the two coal plants in your part of the province be closed almost immediately and replaced with a wind turbine farm, possibly located on that plateau just outside of Thunder Bay, where I'm told the wind loading is fairly significant.

When you see there are initiatives out there to increase the access to green power and to take us away from some of the traditional coal and other fossil fuel generation, hopefully that would give you some comfort that Bill 58 certainly is not standing in isolation.

As a general point, I thank you for your comments there and I can tell you we will certainly take them under consideration over these next few days as we consider the final steps of this bill.

Mr Conway: Thank you, Mr Baxter. Just a quick comment. I don't have the daily in front of me, but at the present time, if we were to replace our existing nuclear capacity and our fossil capacity, we would probably need, I don't know, 12,000 to 15,000 megawatts of hydroelectric power. I'd like to know, where are we going to get that? In your part of the province, one of the things that strikes me is that we should probably be revisiting our Manitoba connection. Whether or not they'd be interested in selling us their hydroelectric power might be another matter, since Minneapolis and Chicago might be a more attractive market.

But you make some very good points. One of the things that always concerns me around this business is that as the operator of a utility in a jurisdiction where we need 24,000 megawatts, I've got to find those 24,000 megawatts. So if we get rid of the nuclear and we get rid of the fossil, I've got to quickly find a big whack of base-load electricity as well as some other things, probably in

the range of 12,000 to 15,000 megawatts minimally. Where, oh where, do I find the headponds for that?

Mr Baxter: My response goes back to the idea of comprehensive planning. I wouldn't say you shut off the nuclear power plants today. Back when the PC government of Bill Davis was in power, there was a lot of money spent on nuclear power development, and when your government came in, that continued to proceed. Now, all through that time there was the opportunity to look for other options, including developing wind and solar. It's been known for over 30 years that these things could be developed. That wasn't done, and there was no incentive taken by any of the governments that held office to actually go anywhere with that seriously. So I think there's an even blame that can be placed across the parties for what was not done at that time.

Mr Conway: I certainly agree with that.

Mr Baxter: I'm not advocating dropping anything like a stone. I'm saying let's retain public ownership, spend some money to rethink the process, involve people—and Manitoba might be the answer. Thunder Bay happens to be a spot that gets a tremendous amount of sunshine as well, very high for the country's overall average. So places like this could be used to develop other operations. I just want to stress that point, comprehensive planning, which I don't think has been done at all.

Mr Conway: Mr Baxter, my final comment is that you make a lot of very good observations. My only problem, as a potential utility operator, is that I have to find the stuff and I've got to have it ready. For example, this summer we're going to need probably, if we ever get a regular summer, about 24,500 megawatts, and I've got to have it when I need it. I want the best planning and I want everything else, but I need it when I need it and I want it to be as easy and as painless and as cheap as possible. It just seems to me that talking about it is always a lot easier than delivering it to the hospital, the mill or the homestead when they expect to get it.

Mr Baxter: I guess if you could supply it last summer, you're going to be able to have it this summer.

Mr Conway: We're going back to the US for that, then.

Mr Baxter: Then that's the short run and a poor solution, but that's the short run. But the whole idea is to turn the process around to correct the mistakes of the past. It's going to take a few years, but at the same time I don't see any reason why we should be out there allowing other operators to come in and siphon off the profits that could be taken by the province and re-invested.

The Vice-Chair: Thank you very much, Mr Baxter, for taking the time to connect with us today. We appreciate your points of view.

That concludes this afternoon's proceedings, so we'll adjourn to Kingston at 9 am tomorrow.

The committee adjourned at 1744.

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LEGISLATIVE ASSEMBLY OF ONTARIO

ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

STANDING COMMITTEE ON
GENERAL GOVERNMENTCOMITÉ PERMANENT DES
AFFAIRES GOUVERNEMENTALES

Friday 21 June 2002

Vendredi 21 juin 2002

The committee met at 0909 in the Ambassador Resort Hotel, Kingston.

The Vice-Chair (Mr Norm Miller): I'd like to call this meeting to order. The standing committee on general government is holding hearings on Bill 58, An Act to amend certain statutes in relation to the energy sector.

RELIABLE ENERGY AND CONSUMER
PROTECTION ACT, 2002LOI DE 2002 SUR LA FIABILITÉ
DE L'ÉNERGIE ET LA PROTECTION
DES CONSOMMATEURS

Consideration of Bill 58, An Act to amend certain statutes in relation to the energy sector / Projet de loi 58, Loi modifiant certaines lois en ce qui concerne le secteur de l'énergie.

ROBERT CHRISTIE

The Vice-Chair: I would ask if Robert Christie is here. Welcome, Robert. You have 10 minutes. You can either use it entirely for your talk or allow time for questions as well, if you desire.

Mr Robert Christie: I haven't had much time to prepare this, so I'm going to read my presentation to you.

A couple of years ago, I listened to Jim Wilson speak to the Prince Edward county council. Up to that point, I had no real opinion on the privatization of hydro in Ontario, just some questions in my mind. In his talk, he described his understanding of the changes to be made to Ontario Hydro and the ramifications of those changes.

After detailing how Ontario Hydro would be broken into a generation arm, the power grid and a deregulated retail system, Wilson described how the government knew there were no savings to be had. Mr Wilson cited six separate studies comparing Ontario Hydro with various privately owned organizations in the US. Each had shown that Ontario Hydro was already more efficient than its US private counterparts. He also described how, unlike what happened in New Zealand, Ontario Hydro was working at a level of efficiency that precluded any chance for operational savings. He said that prices would certainly go up, supply was not guaranteed and, incredibly, the voters of Ontario would be stuck with between \$5 billion and \$40 billion in new debt, without

the advantage of a revenue source to cover this cost; this while the new owners of hydro production walked away with billions in assets to sell energy at any price to whomever they wanted. As the grid opened up to the US, our rates would skyrocket, having a huge impact on Ontario's ability to be competitive.

Mr Wilson said all this with a big smile, obviously happy with the process and obviously completely out to lunch in terms of the ramifications of what he was saying.

I have yet to hear even one reasonable argument in favour of privatization in this case. Everything stated in favour of privatization that I have read or heard has been based on the tautology that privatized enterprises are inherently more efficient than publicly run institutions. According to Mr Wilson, a staunch supporter of the process if ever there was one, the only advantage to a privatized hydro system would be unified billing.

In fact, what Mr Wilson so gleefully described is to be really a change in the way we and our children will live. Like the threatened privatization of health care, privatization of the energy system will change the culture of Ontario. This is a change that will be irreversible. Once gone, Ontario will never have the resources to repurchase assets sold to an international private marketplace. Once sold, Ontario will have given up the chance to truly regulate energy costs and the environmental impact of energy production.

What has happened is that the government of Ontario has begun the process of privatizing Ontario Power Generation—OPG—through the mandated sale of two thirds of its assets. This is not to be confused with the privatization of the energy distribution grid and the remaining publicly owned hydro retail organizations through the initial public offering for Hydro One, recently put into a state of disarray. These two should not be confused with the deregulation of the electricity market that took effect on May 1, 2002.

The sale of the assets of OPG began with the incredible giveaway of the Bruce nuclear plant. More will follow. The result of this element of privatization is that Ontarians are being stripped of the resources necessary to pay down the debt of Ontario Hydro and to pay for future development of energy production. The new owners are being given the opportunity to realize huge profits without the need to invest in any of the necessary additional infrastructure. In the case of Bruce nuclear, the private

owners do not even take responsibility for the by-products of their energy production.

The IPO for Hydro One, either in full or in part, would leave the people of Ontario without any say in the electricity market. Don't be fooled by the partial IPO concept, investment trusts or any other element of private ownership. Private interests, once involved, would control the show or they would not join up. Energy would move through the grid at the will of its private owners. Private interests would control to whom they sold energy and at what price. If the cost of electricity were greater in the US, the grid would be adjusted to allow for the sale of energy to that market, leaving Ontarians to pay equal or greater prices or to face brownouts or worse. The IPO for Hydro One would also relinquish the last control Ontarians would have over the retail of electricity. This is of particular concern for rural Ontario, where cost inefficiencies would lead to significantly higher prices than in urban centres.

The deregulation of the electricity market is now a done deal. However, it has to be re-regulated. Unless a government agency or non-profit organization with a clear mandate owns all of the old Ontario Hydro assets and works within a regulated market, there will be no controlling electricity costs. The manipulation of the electricity market to maximize profit by essentially extorting higher prices—"gaming" as it is called in a well-known process in the electricity market around the world—would be undertaken by both private and public interests alike. We will see energy prices go up without reason, other than the profit motive, regardless of who owns what, unless we re-regulate the market.

There is no upside to the destruction of these publicly owned institutions. The government of the day has attempted to create a crisis by freezing rate increases since coming to power and by freezing any investment in new energy production. Because of these actions and because previous governments also manipulated energy prices for political gain, we find ourselves in a situation where we have a larger-than-desired debt for the old Ontario Hydro and where we need new investment to build more electricity generation capacity. We also find ourselves with low electricity rates. This is an artificial, government-made circumstance. If allowed to manage itself, even the old Ontario Hydro would have had controllable debt and the mechanisms to create new energy production.

The government's own studies indicated that Ontario Hydro would be more efficient than the private sector in running the electricity market. We only need to look at Alberta and California to see that these studies were on the money. Privatization of the electricity system represents an extreme case of throwing the baby out with the bathwater. If the different elements of the publicly owned electricity system need to utilize true cost accounting, then so be it. We do not need to sell off these assets and throw open the electricity market to the vagaries of a private system to do so. It is not privatization but the depolitization of hydro that needs to be undertaken as the desired solution.

What we will certainly be left with if we stay this course are far higher energy costs, far less control over environmental issues, far fewer revenue-generating assets and, incredibly, an extraordinary unfunded debt of many billions of dollars.

We are both ratepayers and taxpayers. I would much rather know that the money I pay for electricity is going to pay for the cost of that electricity rather than for the cost of that electricity plus profit. I would also prefer to have the debt incurred by Ontario Hydro paid down though the cost of electricity; this instead of paying higher rates for electricity simply to accommodate profit.

Blind ideology, perhaps tinted with greed, has put us into a crisis situation. We must stop every element of the current privatization scheme. This is not to say that private energy producers could not exist within a regulated market, working under the umbrella of a provincially owned electricity institution. However, Ontarians have to keep control of this asset. Irritating images of slow-moving Ontario Hydro trucks, past mistakes and the anti-government image that these create cannot be allowed to cloud our vision.

The fundamental controlling argument in favour of stopping and reversing privatization of electricity in Ontario should be, "If we own it, we can control it." Don't believe the simplistic, duplicitous argument that somehow privatization is inherently more efficient.

The Vice-Chair: Thank you very much, Mr Christie, for taking the time to come in today.

RUSSELL MOORE

The Vice-Chair: Is Mr Russell Moore here? Yes. Mr Moore, you have 10 minutes to use as you please. You can either use it for your talk or allow time for questions, whichever suits you.

Mr Trevor Moore: My name is Trevor Moore. I'm Russell's cousin. Russ is hearing-challenged and I'm going to read his presentation. Any questions or comments can be directed to him after I finish reading his presentation.

Mr Russell Moore: Good morning. My name is Russell Moore and I retired from Ontario Hydro in the year 2000, after spending almost 27 years with that utility. In fact, my association with Hydro goes even further back as my uncle was employed by Ontario Hydro for 40 years and his brother, my father, was with Toronto Hydro for a slightly lesser period. As you can well imagine, discussions pertaining to Hydro were standard fare in our home long before I joined the corporation. In fact, I was, in a sense, a seasoned Hydro veteran before I even had the privilege of joining the corporation.

0920

Shortly after I started in 1973, Ontario Hydro became a crown corporation in 1974. At that time, I voiced my objections to this turn of events. My point was, and has always been, that Ontario Hydro would become a pawn to political expediency. Over the years, my prophecy has

proven itself to a greater or lesser degree. On the other hand, even I did not foresee the awesome and utter destruction that has been perpetuated upon this noble and venerable corporation by the current Conservative government.

Back in the days before the formation of Ontario Hydro, power in this province was generated and distributed by a number of small companies. Standards between companies varied, as did prices. Some were better than others. When the Hydro Electric Power Commission of Ontario was formed, all these companies were brought under a single umbrella. As a result, standards, prices and reliability all became uniform. Additionally, large-scale projects, such as the Sir Adam Beck generating station in Niagara Falls, the Saunders generating station and dam in Cornwall, the nuclear power stations in Pickering, Bruce A and Bruce B, Kincardine and, finally, Darlington, all became feasible.

There were also fossil fuel stations that came on-line, such as Lambton, just south of Sarnia, Nanticoke on the shores of Lake Erie, along with Lennox GS in eastern Ontario. There are also the Thunder Bay GS and Atikokan GS in northwestern Ontario. This, by no means, is a complete list, but touches on the larger generating facilities. Of course, generating power and distributing that power are two different, albeit connected, items. Throughout this province there's a grid of transmission lines, the largest about 500,000 volts; the smallest around 6,700.

The total land mass of this province is, by itself, substantially larger than any state in the United States. In fact, you can probably put two or more states together and still not equal our land mass. Consider also that most of our population is concentrated in southern Ontario, as are most of our manufacturing facilities. This does not mean northern Ontario is unimportant. Northern Ontario is a vital, resource-based economy and plays a significant role in the overall health of the Ontario economy. Ontario Hydro served this entire province. There were exceptions, such as the power produced by Great Lakes Power, but such independent power producers were, and continue to be, few and far between, as well as insignificant.

As you can well imagine, the electrification of this province was a Herculean task. The only way this was possible was by the concept of public ownership. In other words, every resident of the province of Ontario was an owner of this utility. Only by this method were we able to electrify such a large and climatically diverse province. There is no private company that could ever accomplish this task and, at the same time, provide affordable electricity.

The concept of power at cost was also brought into play. There's absolutely nothing wrong with this concept. The cost portion will always include the cost of borrowing money, the cost of production, the cost of replacement and upgrades, as well as the cost of totally new facilities to meet future demands. The fact that much of what took place with Ontario Hydro was tax-exempt was an additional bonus, as was the fact we were able to

obtain money on the province's credit rating. In the best of times, we were able to export power to the United States and the resulting surpluses in revenues allowed Ontario Hydro to reduce the rates Ontarians paid for their power.

As you may surmise, attractive electricity rates have laid the foundation for a booming manufacturing industry in southern Ontario. It has allowed for the development of northern Ontario. More importantly, it has allowed us to process our own raw materials to a greater or lesser degree right here in Ontario and still be able to sell the finished product in world markets at competitive prices. Closer to home, it has allowed each individual Ontarian to enjoy a higher and more comfortable standard of living.

One of the reasons for a substantial amount of the Hydro debt was due to our foray into nuclear power. The concept was good. With good management and foresight, it was quite a safe means of producing power. Unfortunately, radioactivity does change the structure of other materials, and this has resulted in overhauls and refurbishments of several of our reactors earlier than expected. On one hand, you could argue our venturing into this field was premature. On the other hand, the half-life of various radioactive substances does span generations. The effect of various radioactive substances upon other materials is also something that could take generations to fully observe. Had we waited, our province would have been a much more polluted one, and it is likely our cost would not remain as attractive. Despite the additional costs of earlier refurbishments of our nuclear reactors, the power produced therefrom is still very reasonable in cost.

Our transmission network is, to a large extent, overbuilt. This is necessary due to the extreme climatic changes we normally experience in this province. Private companies will not overbuild anything because they are too preoccupied with the current bottom line and will not take the long-range view.

The only reason the former Ontario Hydro may have appeared on shaky ground in a financial sense was because the current Conservative government froze our rates. Up to that time, we were paying down our debt to the tune of hundreds of millions of dollars a year. In other words, they created a situation where the company would appear to be failing. Additionally, by breaking up the former Ontario Hydro and introducing the Energy Competition Act, the various new companies created could no longer share the same facilities. This resulted in massive stranded costs, which were an artificial creation, and represent wanton and malicious waste in order to reduce the value of what once was Ontario Hydro. This was to make it affordable to the private sector, which could not otherwise afford something of this magnitude, and thereby satisfy political debts. Ontario Hydro was never 100% leveraged, but this current government has managed to artificially reduce what was once Ontario Hydro from an asset to a 100% liability by extinguishing any equity that we, the people of Ontario, had in it.

Having said the above, there is no way Hydro One can maintain current prices if it is privatized. Once you

introduce the concept of profit into the picture and then add corporate taxes, as well as sales taxes, and must borrow money from the marketplace, you are looking at anything up to approximately a 50% increase. This applies to Ontario Power Generation as well.

It is noteworthy that the provincial government has leased our Bruce nuclear facility to British Energy for 16 years for a paltry annual amount. It is not only noteworthy but also absolutely outrageous that this foreign-based company is making hundreds of millions of dollars of profit on this facility, a facility that was built, financed and operated by Ontarians. Not only that, but this company is not even responsible for the eventual cleanup when the facility reaches the end of its life. These profits will not stay in Ontario, either; they will go to a foreign land. There's no magic to making money. We can do it just as well as anyone else.

Politicians have never understood Ontario Hydro. It is amply evident this tradition continues. The only difference is, this time we have a government in place with more courage than intelligence and which is receiving advice from those who stand to profit most, even if it is basically a one-shot deal. The result is going to be an extreme economic downturn, which will negatively affect the economic health of this province and quite possibly the whole of Canada, as our main economic engine will be crippled.

In summary, the fractured companies that used to make up the former Ontario Hydro must be reunified and the concept of public ownership reaffirmed, as well as the concept of power at cost. Engineers, not accountants, must run the company. It must never be privatized or leased in any form, shape or manner. It is imperative that all agreements entered into by this government be reviewed and overturned as needed because much of what this government has done borders upon criminal incompetence at the very least and outright treason at the worst. Thank you.

The Vice-Chair: Thank you very much. You've pretty much used up the time allowed. I appreciate your coming in and taking the time to put together that thoughtful presentation.

Mr Russell Moore: I hope you'll all do something about it, because you're making a terrible mistake.

The Vice-Chair: Thanks.

0930

CITY OF KINGSTON

The Vice-Chair: Is the mayor's office representative here? If you could please state your names. You have 10 minutes to use as you please. You can either use it all for your talk or allow time for questions.

Ms Isabel Turner: Good morning, Mr Chairman and members of the committee. I'm pleased to introduce you to Mr Jim Keech, our CEO of Utilities Kingston, and Councillor Beth Pater. I'm Isabel Turner, the mayor of the city of Kingston. Thank you for rearranging your schedule to include Kingston. We actually thought we

had dropped off the map or did not exist as consumers of electric power.

I come this morning wearing two hats as mayor of the city of Kingston: one as a Hydro consumer and one as a Utilities Kingston consumer.

I would first like to say this area suffered through an ice storm in 1998 and felt the trauma of being without electric power. This unfortunate incident has been well documented in film, books and pictures. Thus we have a great fear of being without this very necessary commodity, either through the lack of it or the cost to afford it.

I am most pleased that a halt has been brought to privatizing Ontario Hydro and reconsideration is now being made to come and listen to the people of Ontario, who in fact are the shareholders of this corporation. This is a step in the right direction, if you are prepared to take their advice when considering changes to this legislation.

Though we are pleased with the recent announcements by your government that you are moving away from the privatization option, there is some concern that you are still pursuing legislation that will allow privatization to take place. This inconsistency needs to be clarified to the people of Kingston and the population generally of Ontario.

I would like to share with you a motion from the council of the city of Kingston, passed on April 16, 2002, and I will read it:

"Whereas the cost of electricity is a major expense to municipalities, industry and individual consumers; and

"Whereas the residents of the city of Kingston cannot afford to pay any significant increases in electricity rates; and

"Whereas any significant increases in electricity rates would have a devastating effect on the citizens and economy of the city of Kingston; and

"Whereas the Ontario government's plan to deregulate and privatize the electricity market in May 2002 would force Ontarians to compete in the United States electricity market where rates are much higher than those in Ontario; and

"Whereas the Ontario government has not been able to provide Ontarians with assurances that rates will remain stable following the privatization and deregulation of the electricity market. As a result, Ontarians have been growing more and more concerned about increased electricity costs and the possibility of power outages and shortages; and

"Whereas other jurisdictions, where the market has been deregulated and privatized, have experienced wildly fluctuating electricity rates and large electricity rate increases; and

"Whereas despite great concern from members of the public, there has been little public input into the decision to privatize and deregulate the electricity market; and

"Whereas the city of Windsor and the township of Ramara have both passed resolutions opposing the plans of the Ontario government to privatize and deregulate the electricity market;

"Therefore be it resolved that the Kingston city council call on the Ontario government to cancel its plans to deregulate and privatize the electricity market on May 1, 2002; and

"Be it further resolved that a copy of this resolution be circulated for endorsement and comment...." I won't go through that list.

This motion was passed by council in an endeavour to convince you of the feelings of the grassroots of our community.

Now that some deregulation has taken place, we would ask that no further privatization take place, that the ongoing management of our transmission system assets remain with Hydro One as an arm of the Ontario government, thus assuring us that this vital and reliable service of hydroelectricity is delivered throughout Ontario, and that good management be put in place that has at heart the service.

Further on the issue of deregulation, many members of the community are also concerned that market prices will increase substantially in the future. Will some consideration be given to controlling the cost of hydro to the consumers?

I suggest to you that those municipalities that underwent amalgamations that resulted in the expanded municipality being serviced by both the locally owned electricity utility and Hydro One be permitted the opportunity to purchase the assets of Hydro One that service their citizens. This should be allowed under the same process that existed in the former Power Corporations Act, which was effectively repealed upon first reading of the Energy Competition Act in 1998, without warning to municipalities or their utilities.

Further, we the people of Ontario fear that electric power could be sold to our neighbours to the south at higher rates, thus depleting our market and putting the service out of the reach of many.

I would ask that electric power in Ontario be put on the same level as water, sewer, police, fire and ambulance—a necessary service.

I trust you will listen to us. Fifty-one per cent ownership is not enough; 100% ownership will eliminate our fears and restore our confidence.

The Vice-Chair: Thank you very much. That allows time for a question: the official opposition, Mr Gerretsen.

Mr John Gerretsen (Kingston and the Islands): It's good to see you here, Mayor Turner and Councillor Pater, and a lot of other people from Kingston as well.

Could you just explain what exactly the situation is, for the benefit of the members, between the fact that Utilities Kingston controls the utility operation in the old city of Kingston and Ontario Hydro is in effect in the new city? Would you like to see all that in one corporation at some point in the future?

Ms Turner: The city tried that, but of course the act was sort of eliminated all of a sudden. If you're going to amalgamate a city, you've got to bring the people together, all stepping at the same time, doing the same thing. What we have is a certain amount of confusion.

One half of the community is on Ontario Hydro and the other half is in public utilities.

It's not just the confusion; it leads to other things. I go back to the ice storm the city went through. During those dreadful times when people were very cold, and very unhappy, may I say, we were dealing with two sets of operations. This becomes very confusing, not only to the emergency team but to the people who are out in the field. It has two prongs really for me: number one, to bring the city together under one roof, and also to create less confusion if there is an emergency. I believe that being able to sell off these parts of Ontario Hydro to the public utilities in the cities that own them, and are straddling these two sides of the fence, will give Ontario Hydro and the provincial government some remuneration with which to help pay down that debt. But to put it private, to me is a whole different ball game and, frankly, quite fearsome.

The Vice-Chair: Thank you very much for taking the time to come in today to give us your views. We appreciate it.

0940

ONTARIO ELECTRICITY COALITION

The Vice-Chair: The Ontario Electricity Coalition, welcome. You have 10 minutes to use as you please. If you want to allow time for questions, feel free; otherwise you can use up the whole time in talking, if you like.

Mr Matthew Gventer: Good morning. I'm Matthew Gventer and this is Mathew Blakely. The Kingston chapter of the Ontario Electricity Coalition is a broad-based assembly of people concerned about our public electricity power resources. We're here to present the facts and to put that information into the context of eastern Ontario.

We are strongly opposed to the privatization of our electricity resources. It threatens the economic health of our community. We are not opposed to changing the way those resources are managed, nor to change how the electricity system is structured. Changes were overdue. Rather, we are concerned that the changes that have been introduced are going in the wrong direction.

The rules of NAFTA will make it very difficult to return to a public system. When asked if the government has a contingency plan for when the experiment fails, Minister Stockwell dodges this question at every turn.

You know, we almost lost public control over the transmission corridors. This shows how hastily the government has been acting and why the public needs the power to affect the government's intentions.

We want to first address at least some misleading statements made by the minister.

(1) The minister has argued that we cannot afford to pay the debt and nobody would lend us money to upgrade our system. In reality, we were paying down the debt successfully—\$8 billion in four years—until the government decided to let Hydro One use profits to buy municipal distributors. We will continue to pay the debt

regardless of the system, but with privatization, we will pay the excess profit as well. And the way the government has legislated, we will carry all the risks.

(2) The minister has argued that governments will not take the hard decisions necessary to pay the debt; they will not raise electricity rates. The fact is, two cents per kilowatt hour is all the increase needed to pay off the bulk of the debt and upgrading costs. After privatization, we will not be able to control who will own our assets or what their objectives will be. The electricity needs of Ontarians will be of secondary importance.

(3) The minister has criticized municipalities for being hypocritical in resisting privatization when they jumped at the chance to make profits from the distribution system. By remaining in the public domain, we have the chance to challenge the policies regarding profit-making on our electrical services. We have the opportunity to press our councillors to make sure the funds go into infrastructure needs or green energy initiatives or to relieve the impact of higher electricity costs on our most vulnerable citizens. And do you know what? That is just what we have started doing in Kingston.

(4) The minister has argued that the capacity for delivery to the United States is only 4,000 megawatts out of a 25,000-megawatt capacity. Contrary to this statement, Hydro One is increasing and planning further growth of the tie lines by thousands of megawatts. A study of the California situation found that 2.5% of power taken from the grid can create a 25% rise in prices.

Now we wish to turn to our concerns about the impact on the economy of eastern Ontario. The Kingston electricity coalition has received advice from our northern New York neighbours that they are trying to transfer ownership of electrical generation and distribution facilities to municipalities. The municipal electricity companies are providing services far below the prices of the private sector.

Looking at the markets into which our electricity is to be shipped, we find that the prices there are 50% to 100% higher than Ontario prices. To some extent, these differences lie in the high cost of distribution and transmission—so much for the discipline of the private marketplace. Before we have even entered the new electrical environment, we have seen the preparation for privatization lead to a 20% rise in electricity costs. Much of this has gone out of our community in the form of new taxes, higher rates, profit factors, system operation costs and so forth.

The small consumer—residential and commercial—does not have the leverage to negotiate lower rates. Major retail corporations that can negotiate better deals will undercut the local merchants. The ordinary citizens who signed up with high-pressure retail dealers are now paying \$180 per year more for the generation portion of their bill than they were paying. That money will leave our community. In total, if the government follows the path it has laid out, we expect the consumer to pay \$500 to \$1,000 more per year for electricity services. Our estimate is that \$40 million will be drawn out of the

Kingston economy each year due to the redesigned electric power system.

With a greedy eye on cashing in on higher US demand and higher US prices, the government has created a Hydro One monster, with its attention directed toward building transmission lines into the US. Too bad about the decay in service to the outlying areas of Ontario, like eastern Ontario. This monster, to be more attractive to investors, is laying off workers and has shipped its engineering staff to a private accounting firm.

These steps have been concurrent with a severe deterioration in the quality of service to our region. Major industrial operations are experiencing as many as 10 power interruptions or voltage-drop incidents a year. Each one of these forces the whole production system to come to a grinding halt. This compares with one event every two years, on average, in some of their sister plants in the United States. They are being told that if they want more reliable services, they will have to pay for the upgrade in the lines. Is that any way to encourage investment in our community?

Our strategy should be to balance the resource needs of the entire province. Selling off our power resources would mean that profit will drive decision-making, as it did prior to the founding of Ontario Hydro.

When you weigh costs, you should take into account the benefits. The public debt for our hydro services needs to be weighed against the billions and billions of dollars that the private sector generates. Industrial and commercial operations prospered on the low cost and reliable electrical environment in which they have operated, and have produced jobs and paid taxes. The eastern Ontario region knows that its economy will suffer if that tradition is betrayed, and so will communities throughout Ontario.

If we have to pay for upgrading the power grid, let's get on with it and pay for it once. Let's not pay profit forever, with no guarantee that the added costs will go back into serving our communities.

The act being proposed includes profound limits on public access to information. It makes it difficult for citizens to make informed decisions on even such elementary questions as whether or not they should buy power from retailers. Are the retailers buying large amounts of the base generation at fixed prices that will free the generators to sell the remaining power on the spot market at higher prices? Are the customers of the local distributors being put in an unfair position?

At the local level, due to a technicality, the city of Kingston missed an opportunity to take over the distribution services to the townships with which it amalgamated. We urge you to take the necessary steps to permit the city of Kingston to buy these services. The current situation is a hodgepodge of electrical services, and the efficiency of our city utility has suffered. The city is asking for a second chance to make this purchase and it should be accommodated.

When we started this campaign, the public was quiescent. Now, every day neighbours stop us and say, "Thank you. Thank you for fighting for our electricity system. Keep up the good work." If the legislation to

allow the sell-off of our electricity power system is passed, you can be sure we will not go away.

We are not opposed to the decentralization of generation. There is room for new initiatives from private and non-profit organizations. What we are opposed to is the selling off of all or part of the public transmission and distribution system to a private monopoly which is not accountable to the public. We are opposed to the selling of our generating plants at fire-sale prices to private, for-profit entities. We are opposed to the abandonment of the principles of providing service at cost and with minimum harm. If we have the will, we can work together to develop renewable sources of electricity and to foster a conserving attitude that will reduce our need for more and costly generation, and we can redesign the public system along modern principles to serve us better.

The Vice-Chair: That allows time for a question from the third party.

Ms Marilyn Churley (Toronto-Danforth): I note that in your very last paragraph you say you are not opposed to the decentralization of generation. As you know, the New Democratic Party is vehemently opposed to the privatization of both the transmission lines and the generation, and the generation for some of the same reasons you've mentioned on transmission. We do agree a change is needed and have a plan for that, but we're very concerned about NAFTA and high prices, as has happened in jurisdictions all across the world, like California. I'm just wondering why you are not as concerned about that.

Mr Gventer: Oh, we're very concerned about that. The design does not have to allow for the privatization of the central core system. The way Ontario Hydro worked is that it allowed non-utility generators to feed into the system. We could have redesigned it with a greater distributive system without falling into the danger of allowing NAFTA to kick in.

Second, we were also talking about non-profits, co-operatives and municipalities getting into this. So there's a variety of ways of having a distributive system. Also, we can include making it easier for local users to generate their own electricity before the meter. So there's a variety of ways of approaching this and having a distributive system.

Ms Churley: You're essentially saying the same thing the New Democratic Party is saying, I believe, in terms of needing to change the system so that green power can get on the grid and all of those things, but we don't have to privatize it, sell it off, in order to do that. Correct?

Mr Gventer: That's right. Exactly. That's what we're saying. Thank you for asking the question.

The Vice-Chair: Thank you very much for coming in today and giving us your views.

0950

RICHARD KIRKUP

The Vice-Chair: Is Professor Richard Kirkup here?

Mr Richard Kirkup: Guilty. Thank you, Mr Chair. It takes me a little longer to get organized. I don't have the

sophisticated support staff that others do, so I'll try to do my best on my own. If you will give me a little time to get organized, I would appreciate that.

The Vice-Chair: Certainly. Welcome. You have 10 minutes to use as you please.

Mr Kirkup: I appreciate the opportunity to appear here, thanks to John Gerretsen. I take my hat off to John.

If I wanted to hold a meeting that no one would attend, I'd hold it on a Friday in June, on a holiday weekend.

However, I'd like to know to whom I am talking. Would the Conservatives here raise their hands? I'm surprised you're willing to identify yourselves. In any event, thank you.

Marilyn Churley, I remember your father. He was a formidable man. Thank you for attending.

I remember when Stephen Lewis used to comment on the Eastern Townships. He said—

Interjections.

Mr Kirkup: Excuse me for interrupting while you're talking.

Stephen Lewis, whom I ran against as a PC, and Bill Davis—and Alvin Curling, by the way, my buddy, your buddy, whom I adore and who I think is a wonderful person, as I do you—Stephen Lewis used to say, when he came to the Eastern Townships, that he would not get off the train. He'd throw the pamphlets off the back. I believe Stockwell is in the same position. Last time Stockwell was here, he was run out of town. He wouldn't get out of the van. He was run out of town.

Then I get different stories here. We've got Eves, we've got Stockwell, "Shocker," Eves says this, and here we have the "PC Dog and Pony Show at Queen's Park." Eves has some story, and Stockwell has another story. Which liar should we believe? Which of these liars should we believe?

I wish to continue—

Mr Steve Gilchrist (Scarborough East): On a point of order, Mr Chair: Perhaps you could read into the record the—Anne, do you have the disclaimer that we read to people who think somehow they have parliamentary privilege in here?

Mr Kirkup: I missed the comment. What was—

Mr Gilchrist: It wasn't directed to you.

The Vice-Chair: The clerk is going to read the disclaimer for people presenting.

Mr Kirkup: What does he want me to disclaim?

The Vice-Chair: "Caution to witnesses in committee: While members enjoy parliamentary privileges and certain protections pursuant to the Legislative Assembly Act, it is unclear whether or not these privileges and protections extend to witnesses who appear before committees. For example, it may very well be that the testimony that you have given or are about to give could be used against you in a legal proceeding. I caution you to take this into consideration when making your comments."

Mr Kirkup: Could I ask you this question: are you threatening me with legal action?

The Vice-Chair: No, I'm not. I'm just reading—if you could just continue now.

Mr Kirkup: Fine. I will disclaim that Eves and Stockwell are liars as long as they disclaim that they are liars. Now may I continue without interruption, please?

The Vice-Chair: Please continue with your presentation.

Mr Kirkup: I'm proceeding on, and I know a little bit. I have more than a nodding—if he wants to read the paper, I'll stop. Hopefully it's not in my time.

Mr Gilchrist: It is in your time.

Interruption.

Mr Gilchrist: I don't consider name-calling good manners. So if that's the level of debate we're having here now, I'm not going to be part of it.

Mr Kirkup: This is absolute rudeness, Mr Chairman, and I would hope you would discipline the member.

The Vice-Chair: We're here to hear from the public. Your comments do go into the public record and into Hansard, so I suggest you use your time.

Mr Kirkup: All right, I will continue. Even with the rudeness of Steve Gilchrist, MPP. I will continue, even with his ongoing discourtesy and disrespect for the public.

Now, I do know a little more about hydro towers because I did spend time putting myself through university as a hydro tower painter. One of my partners happened to be an individual by the name of Trevor Eyton, who happens to be a senator, who would not put up with one second of the member's discourtesy—not one second of that member's discourtesy. If this is the insolence he has for the public, let it be on record. No one should put up with his discourtesy.

I would like an apology from the member for his discourtesy.

The Vice-Chair: Sir, I would suggest that you keep continuing to use your time.

Mr Kirkup: OK, I'll continue. What do we have here? Bay Street brokers bellying up to the Eves trough. Putting Stockwell, Minister of Environment, in charge of the environment—Stockwell, who got run out of Kingston last time; Stockwell, who hid in a van to avoid people. Putting Stockwell in charge of the environment is like putting Colonel Sanders in charge of a chicken farm.

I thank you for your indulgence. I would hope for an apology from Gilchrist, the PC. Thank you and I will accept questions.

The Vice-Chair: Thank you very much. It's time for the government to have questions. Any questions?

Mr Gilchrist: We wouldn't lower ourselves.

Mr Garfield Dunlop (Simcoe North): No questions.

The Vice-Chair: Mr Johnson, go ahead.

Mr Bert Johnson (Perth-Middlesex): I listened with interest to the presenter. Everybody is entitled to their position and their own opinions. I wanted to thank you for taking time this morning to come and present to us.

Mr Kirkup: Thank you. You're very gracious, Mr McDonald.

Mr Johnson: I'm just sitting here, sir.

Mr Kirkup: What is your name?

Mr Johnson: My name is Bert Johnson.

Mr Kirkup: If I was living in your constituency, I'd vote for you because of your generosity.

Ms Churley: But you forget it, Steve.

Mr Kirkup: Gilchrist is going to meet me again at many meetings and there will be a lot of paper readers there, Gilchrist. Don't you forget it. Don't you forget your insolence and disrespect for the public. Reading a paper in a committee meeting—you should be ashamed of yourself, Gilchrist.

The Vice-Chair: We have time for a question from the official opposition, Mr Gerretsen.

Mr Kirkup: There's a question. I hope they don't come too hard and too fast. It's Friday morning, John. Go ahead.

Mr Gerretsen: We know, Mr Kirkup, of your great interest in community activities and community affairs etc. What is the greatest issue you have with the sale of Hydro One? What do you think is the worst that could happen from that?

Mr Kirkup: You know you and I didn't discuss this question. Here is the gutless performance of the PCs. Hydro is not worth \$55 billion; it is worth \$100 billion. If you examine, as I did when I painted Hydro towers, the amount of land and the amount of access and other presenters, it is worth \$100 billion. It's a Bay Street giveaway. That is the biggest issue I have. The biggest issue as well is that they've brought back Ernie Eves, not a saboteur but an infiltrator, to sell off public property.

The Vice-Chair: Ms Churley, you have about a minute, if you want.

Ms Churley: OK. I appreciate your presentation. I just wanted to ask you your position on the sell-off of the generating plants, because we kind of got sidelined on Hydro One. As you know, New Democrats are opposed to selling off the generation plants as well.

Mr Kirkup: Sure, sell it off for \$100 billion.

Ms Churley: For \$100 billion? OK.

Mr Kirkup: Give it back. Yes, sell it. Give us \$100 billion and they can have it.

Ms Churley: I expect we would get far less than that. It'll be a fire sale.

Mr Kirkup: Put it this way: I am a poker player from way back and also a professor. I don't always play all my cards up front. But, Marilyn, most of all, is your father still alive?

Ms Churley: No, he died last year.

Mr Kirkup: Oh, what a wonderful man.

Ms Churley: Thank you.

Mr Kirkup: I respected him immensely. Thank you for your question.

The Vice-Chair: Thank you very much for coming in today, Mr Kirkup.

Mr Kirkup: And the paper reader over there, I'm surprised he hasn't finished colouring it yet.

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KINGSTON ACTION NETWORK

The Vice-Chair: Is the Kingston Action Network here? Welcome, and if you'd please state your name.

Ms Marijana Matovic: Thank you for providing me with the opportunity to present on the proposed Bill 58, the so-called Reliable Energy and Consumer Protection Act, 2002. My name is Marijana Matovic and I represent Kingston Action Network, a coalition of individuals and organizations committed to working for social justice and equity in public policy.

I am sad to say that the Bill 58 hearings are a sham. If it were not for the activists of this town, information about these hearings would never have been publicized in the Kingston media. It was on our urging that a local newspaper published an article with this information, not earlier than this Tuesday. I have to ask, how does the government expect to hear public opinion if it doesn't inform citizens that it is looking for it?

Mr Gilchrist: How about the paid advertisement that was in the Whig-Standard last Saturday?

Ms Matovic: Also, a few days of hearings in a few cities cannot possibly be a legitimate hearing of the voice of the people of Ontario. However, this is our only chance to have some say, and I will use it.

Kingston Action Network is opposed to the passing of this bill. This bill, if passed, will allow the government to dispose of Hydro One, which in fact belongs to the people of this province. This is equally true of other segments of the former Ontario Hydro to which harm has already been done.

Ontario Hydro has a history that transcends any party of the day and represents a major public asset in Ontario. For those reasons, and rightfully so, up until this government came into power a referendum was required before any major sell-off took place. Now the government is also trying to introduce a bill which would give them a blank cheque for electricity privatization even though it was not part of their mandate. Furthermore, taking into account the voter turnout, the government represents only 27% of the population. If we compare that figure with that of 65% of the people in opposition to the privatization and deregulation of the electricity industry, it is clear that this bill would be in contradiction to the democratic will. In addition, a poll by Strategic Communications established that 87% of Ontario citizens believe that an election should decide the future of public electricity in the province.

This bill would further undermine the ability of citizens to affect political decision-making and it would set a dangerous precedent for a government to simply change a law whenever it suits them, regardless of the public will. This bill is introduced simply to get around the ruling of Justice Gans, which declared that the provincial government does not have the power to privatize any of Hydro One. There is a good reason for such a ruling. It is a pity that a court hasn't made the same decision about generation plants. The government hasn't tabled any independent study on the effects of electricity privatization, and since the court ruled that they cannot sell Hydro One, the government has been doing more damage to the people of Ontario by making and changing its electricity policies on the fly. The

government's plans for Hydro are constantly shifting, without direction and lacking a studious approach. The people of Ontario need to have input and be able to stop such irresponsible decision-making. Public ownership of Hydro One is vital to the economic and environmental well-being of Ontario.

From the environmental perspective, the plan to privatize the electricity industry is a disaster. Ontario's coal-fired plants don't operate at full capacity today, and it is madness to think someone will buy them and not run them around the clock so they can sell electricity to the United States. Similarly, even before May 1, the Lennox generating plant has communicated that maintaining a production ratio of 80% natural gas to 20% dirty oil, as encouraged by the city council motion, could result in reduced profits and consequently layoffs following privatization. Helen Howes, OPG vice-president of sustainable development, said in April in a presentation to the Kingston Chamber of Commerce that after privatization, the use of coal will expand greatly.

Selling Hydro One will provide for that extra expansion of the lines to the US. The OEB has already approved deep discounts for use of the transmission system by power exporters, thereby subsidizing increased coal-fired and dirty oil generation.

In addition, if power generation and transmission are privatized, NAFTA rules will make it all but impossible to regulate them with respect to either the environment or the cost. Already, NAFTA has overturned Canadian laws on toxic fuels and toxic wastes, and trade agreements have overruled the US Clean Air Act. Privatizing power equals killing clean air.

With respect to the cost, electricity policies of this government are already failing Ontario citizens. Deregulation of pricing is costing school boards, hospitals, businesses and individuals tens of millions of dollars in higher hydro bills. The government is the only source that doesn't stand to gain from privatization, that claims prices will go down. If the government is wrong, how will it affect the already sad socio-economic picture of Ontario?

Ontario has witnessed a steadily increasing gap between rich and poor over the last decade. Higher prices for such an essential good as electric power would only further this gap.

Kingston has its fair share of the poor and vulnerable: one third of the population is spending over 50% of their income on housing. There is more bad news: in Kingston, the waiting list for rent-geared-to-income housing was over 1,000 names long last year.

You may think that tenants whose rents are all-inclusive won't be hurt. However, rent controls no longer exist for newly vacated apartments. Even where rent review applies, rents are allowed to rise as electricity costs go up, but they don't go down when the electricity costs drop.

The data also indicate that the median income has fallen since 1990 in Ontario. The number of consumer and business bankruptcies in Kingston has also risen

steadily over the last 10 years. Many of our residents and small businesses, financially speaking, are hanging on by their fingernails. What will it mean to them to have to pay higher rates of 30% or more for utilities?

Now, as electricity price spikes loom this summer, the government wants to pass a bill that will keep the reasons for steep and sudden increases secret from the public. Recently, the IMO warned of price spikes because some power stations or generators would not be up and running, but the IMO won't tell the people of Ontario which ones. The public has a right to know. Bill 58 actually puts in place an even bigger cover-up. Citizens won't be able to use the freedom of information act to find out who is manipulating the market. That sets a very dangerous precedent.

Parts of the bill aimed at greater protection may be useful only if this government finally decides to enforce the laws. If existing laws were enforced, there would probably be no need for new regulations. For example, in the past few years, out of 3,200 offences against the environment, only one resulted in prosecution.

The situation is similar when it comes to consumers' protection from fraudulent electricity retail strategies. In February, a flurry of consumer complaints about the industry made the former energy minister, Jim Wilson, threaten zero tolerance of any behaviour that would jeopardize the smooth transition to electricity market deregulation. The government warned all electricity retailers, but the decision to allow consumers out of the contracts was left to the industry. So, for example, Direct Energy ostensibly made it easier for consumers to get out of their fixed-rate long-term electricity contracts, but it was reviewing complaints on a case-by-case basis without detailing who would review the complaints or how merit would be determined.

The government spokesperson said at that time that the energy board cancelled a number of contracts, even entire towns. These mass cancellations are conveniently blamed on the behaviour of an agent, in spite of the fact that the agents are substituted but practices have persisted to this day. Here in Kingston, we haven't heard of a single agent who wasn't pushy and who laid out facts clearly and honestly. The only thing that has changed since then is that the Minister of Environment and Energy doesn't pay much attention to this issue.

In conclusion, we are not satisfied with the sale of any percentage of Hydro One, nor with replacement of the IPO with schemes such as partial sell-off, sale to pension funds or creation of income trusts, which would shift huge revenues to the private sector. We want full public control of the entire hydro system, and that does not mean we are for the status quo, as is often implied by the minister. It is possible, and we want to introduce green energy under the public umbrella. The system needs to look different than it does now but still be public. We know that the best protection from environmental pollution, skyrocketing rates and unreliable service is publicly owned and operated electricity. If the government is successful in passing this bill, activists of Ontario will

continue to campaign across the province to halt any further sell-off, and you can be sure that we will be heard in the next election.

The Vice-Chair: Thank you, Ms Matovic, for coming in today. We appreciate it.

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PHILIPPE TROTTIER

The Vice-Chair: Is Philippe Trottier here? Welcome. You have 10 minutes to use as you please.

Mr Philippe Trottier: I'd like to thank you, Mr Chairman, and the committee for allowing me to appear today. I have recently moved to the province, so I'm a new resident. I moved from Manitoba, and I'd like to draw upon some of the examples and results of privatization in Manitoba as indicators of what may happen in Ontario.

If we look at why Ontario Hydro was brought into being years ago—indeed that was mentioned by a previous speaker—it was to place hydro power in a public trust. In the Manitoba of my grandparents, in the 1920s and 1930s, there were a number of hydro companies, as there were in Ontario. In the 1930s, a number of them fell on hard times and were brought under an umbrella, actually two umbrellas, in Manitoba: Manitoba Hydro for the rural parts of the province, and Winnipeg Hydro brought a number of the city power stations under that umbrella. The purpose was to provide dependable, reliable power at a reasonable cost as determined by a local agency, and that agency was certainly working in the best interests of the citizenry—the stakeholders and the ratepayers. As enunciated by a previous speaker, that was much the same as happened here in Ontario. These objectives hold true for Ontario Hydro today. They're the same reasons to keep Ontario Hydro as a public utility. There's no valid reason to privatize the generation stations, nor to privatize the transmission grid.

I'd like to speak about some of the fears and apprehensions I and some of my neighbours in the west part of Kingston have, a number of whom are retirees on fixed incomes.

Certainly private hydro companies would not operate in the best interests of the people of Ontario. Rather, corporate decisions are based on the profit motive. We found that out in Manitoba with the sale of the Manitoba telephone system some four years ago. After the sale of the Manitoba telephone system, the base rate for phone service doubled within six months. And there may be a relationship, because I believe about a year afterwards—and it was certainly fresh in the minds of Manitobans—the Filmon government, the Conservative government in Manitoba that went through that privatization process, was thrown out of office. I certainly think it was one of the reasons they were tossed out of office.

The shareholders in the private corporations, in the case of Deutsche Telekom, for example, are not the German citizenry. The decisions with respect to Deutsche Telekom, which was privatized six years ago, are in the

best interests of the stakeholders, who come from a number of major European brokerage houses as well as Asian brokerage houses. Certainly this is the case with the Manitoba telephone system, where the major stakeholders are from the US and Europe.

In my reading of some of the recent literature with respect to the privatization of Ontario Hydro, both the transmission system and the generating stations, the rates for hydro in New York are 38% higher than in Ontario and the rates in Pennsylvania are 63% higher than in Ontario. I don't think that would work in the best interests of the folks of Ontario.

If you look at the decision-making in boardrooms other than in Ontario, the decision to transmit power to the US, where perhaps it would bring in a greater amount of profit, would certainly be a major consideration, rather than expanding some of the transmission in northern Ontario for the residents of northern Ontario. I expect that parts of rural Ontario and northern Ontario would go begging. A case in point would be places such as Moosonee and Moose Factory, which I have had occasion to visit and where folks enjoy a very reliable source of hydro power.

Currently Ontario Hydro, as a crown corporation, is held to account by the people of Ontario. If privatized, the private company would not be held to account by the folks of Ontario. Rather, it would be the stakeholders.

There's a security issue here. Basically, hydro power is the juice that runs through the corpus of Ontario and the Ontario economy. Mention was made of the ice storm and how power was restored. If it were put in private hands, the decisions on how long it would take to restore power would be made and weighed against the requirement to provide power to US customers.

Let me speak briefly on what we would lose if we sold off hydro power. Hydro power is basically the linchpin of the economy, both provincially and nationally. Electric power is what runs our businesses and our services. Private business runs on supply and demand economies. We've heard mention of some of the businesses that are the big power users: DuPont, Nortel, the StarTek call centre here in the Kingston area and the forest industry throughout Ontario. When the issue of privatization was raised by the Campbell Liberal government in BC recently, there were 30 major businesses in BC that petitioned the government, and they reflected some 15,000 jobs and some \$10 billion in assets, companies such as Canadian Forest Products Inc. They said, "No, privatization is not good for us." Why is it not good for business? Because they know they could anticipate higher hydro costs to run their plants and equipment, and as a result they would become less competitive.

Similarly, our service sector—hospitals, schools, universities, penitentiaries and transit systems, for example the Toronto transit system—would anticipate higher costs to operate their facilities. These costs would, of course, be passed on to consumers, both to ourselves and to businesses. So not only would we see a hike in our hydro rates, but we would also see a hike in the other

services and goods we purchase. The cost of the lumber we buy to build houses and renovate our houses would increase. The cost of hospital services, because of higher lighting and heating costs and power costs, would increase.

Earlier I spoke of there being no valid reason to privatize the hydro system and the transmission system. One is the debt load. Well, as a crown corporation, Hydro can still effect debt reduction. We can still bring in effective management so that if there are ineffective plants, they can be closed. Aging equipment can be written off. Hydro can still be reorganized and modified in terms of its service delivery. This can be done without resorting to privatization. In other words, whatever are the problems that face Hydro, they can be addressed and solved without resorting to privatization.

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The provincial government, by ensuring the effective management of this crown corporation as a crown corporation, can keep Ontario Hydro as a vital linchpin of the Ontario economy in public hands, working in the best interests of the people of Ontario.

In closing, I'd like to say that all we have to do is look at what has happened in the province next door, in Manitoba. Manitoba Hydro has not been privatized. Manitoba Hydro has been kept as a crown corporation. It generated a \$500-million profit last year. The provincial government polled citizens in Manitoba with respect to the future of Manitoba Hydro and they said, "Keep it as a crown corporation." Also, some 78% said, "Yes, use some of that profit to pay for some of the costs of social services which have been offloaded by the federal government, such as health care."

The Vice-Chair: Thank you very much for coming in. You've pretty much used up your time.

Mr Trottier: I appreciate the opportunity.

KINGSTON COALITION AGAINST PRIVATIZATION

The Vice-Chair: Next we have the Kingston Coalition Against Privatization. Would the representative please come forward and state your name.

Mr David McDonald: Good morning. My name is David McDonald. I'm not sure how "professor" snuck in here. I teach at Queen's and I am in fact a professor. I'll just note that I do work on these issues around the world and I'm actually going to give you a booklet this morning on water privatization in South Africa. You're probably wondering what the heck that has to do with electricity privatization in Ontario, but that's in fact what I want to talk about today: the universality of these issues and the global debate that's taking place over the privatization of core services.

I'm also the director of a project called the municipal services project, which runs research initiatives in Africa and Latin America, and I've worked extensively in both of those regions. I'm here officially on behalf of the Kingston Coalition Against Privatization, as the co-

director of that organization. This is a community and labour coalition opposed to the privatization of core public services. Within that gambit of core services we would include water, waste, sanitation and of course electricity, among other services. We are opposed to the privatization of these core public services for the kinds of reasons I'm going to talk about today.

We were formed in a fight against an initiative to privatize waste management in the city of Kingston in the year 2000. We managed to convince the previous council to vote against it overwhelmingly, and the community agreed. The current council, as you no doubt got the sense this morning from the mayor's presentation, is opposed to a wide range of privatization initiatives. I think this represents the attitudes of Kingstonians in general. As you've seen this morning, there's lots of opposition to this and it makes me wonder where the supporters are. Recent polls have shown that at least 70% of Ontarians are opposed to the privatization of Hydro. Clearly, there's a lot of opposition here in Kingston. I don't know what the following speakers are going to be, after me, but where is the support for this on the ground? I just don't see it.

My presentation this morning is really about debunking some of the myths of privatization and also pointing to some alternatives. I'm going to make some broad conceptual arguments which, as I mentioned, are universal in nature, in part to help situate this debate in the broader global context of privatization. I want to step back from the detail and the numbers of electricity in Ontario, some of which you've heard again this morning, as important as they are, to focus on a couple of conceptual points.

To my mind, there are four main arguments made in favour of privatization. The first is that there are simply not enough public funds available, that the state doesn't have the money required to either pay down debt or invest in massive infrastructure investment. I'm not going to talk about that this morning. We've heard this debunked time and again.

The second argument is that the private sector is somehow inherently more efficient than the public sector. Again, I'm not going to focus on this. This has been debunked this morning and there's enough material on that.

The two points I do want to focus on are that the private sector is somehow more accountable than the public sector and, secondly, that the private sector is somehow more creative than the public sector. I think both of these arguments are false and I want to point to a few points of why they are.

This booklet, which I'll leave with Bert Johnson, you can circulate and look at. Again, it's about water privatization in southern Africa. They are actually talking about privatizing electricity in the region now as well, but the same basic arguments apply. I thought it would be useful for you to have a look at it just to get a sense, again, of the universality of the kinds of arguments that are being made.

On the accountability front, the argument is that bureaucrats are somehow lazy, corrupt and unwilling to

blow the whistle on their colleagues; that contracts are transparent; companies can be hired and fired based on whether or not they actually perform according to what they said they were going to do and what the contract said they were going to do and, therefore, they're more accountable. I can tell you, as an academic and as a researcher, that the empirical evidence proves that private firms in fact tend to be less accountable, not more accountable, and there are a few reasons for this.

One is that freedom of information legislation does not often apply to the private sector in the same way it does to the public sector. It can prove extremely difficult to get information out of a private company, whereas freedom of information legislation will apply to the public sector.

Companies do everything they can to avoid public scrutiny. How often do you see the love lives, let alone the financial behaviour, of a private corporation or a private CEO in the paper in the same way you see the public lives and the private lives of public officials in the newspaper? It's very difficult for a public official to avoid public scrutiny. For a private person, however, there are all kinds of laws in place which will allow them to escape that kind of scrutiny. Once you hand over a service to the private sector, it becomes very difficult to scrutinize.

It's also very expensive to be scrutinized, and private companies do everything they can to avoid the kind of public scrutiny that our public officials must face. In fact, it has been argued and demonstrated in some cases that it's exactly this avoidance of public scrutiny which makes the private sector more "efficient." By being able to avoid the kinds of expensive scrutiny that take place, they can save money and make themselves look more efficient.

There is of course lots and lots of evidence to suggest that private companies will bribe regulators and have all kinds of corrupt behaviour. This isn't just in the Third World. There's lots of evidence of this from the UK, France and other so-called First World countries where privatization has taken place. Again, the empirical evidence is that private companies are in fact less accountable, not more accountable, than the public sector.

In fact, the whole process of privatization and deregulation is often unaccountable. I would argue that in many respects, so is this particular process. How many of us knew about these hearings? It was not public information until just this week. What kind of opportunity does the public have to scrutinize the kinds of privatization and deregulation initiatives taking place? Time and time again, we see this lack of accountability in the privatization process itself.

The alternative is to make the public sector more accountable, more transparent and, I would argue, more participatory. There are lots of examples from around the world where the public is getting more and more involved in the delivery of core basic services. We like to refer to these things as public-public partnerships, unlike the kinds of public-private partnerships that are being promoted by people in favour of privatization.

These are not easy, nor are they part of the broader Canadian culture of politics. We need to start to look at examples internationally: Norway, Sweden, France, Brazil, Uruguay. A lot of countries are moving toward this notion of bringing the public into the kinds of decision-making that takes place. Porto Alegre in Brazil, for example, has a budgetary process in that city which involves 20,000 people on an annual basis in the budget-making process of a municipality.

Public services can be made more accountable and they should be made more accountable. It is not the status quo versus privatization.

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The second point is one of innovation and creativity. The argument for those in favour of privatization say that private companies and their need to cut costs and create market advantage lead to creativity, that somehow the profit motive is what drives creativity. Again, there is no empirical evidence to suggest that private companies are inherently more innovative. In fact, they tend to use energy-intensive, dirty and cheap production systems, in large part because competition demands it.

Public employees, on the other hand, are innovative. I appeal to you as public servants yourselves that you are creative. You can be innovative. This is why I find one of the ironies of the new conservatism is that people come in arguing that we need to be more creative and they're pushing forward new ideas, and then turn around and say that the public sector is somehow not creative and not innovative. There's a certain irony there.

But I myself as a public servant, city managers, front-line workers, teachers, doctors—we have some of the most creative and innovative public employees in the world here in Canada, and there's no reason to suggest that Ontario Hydro employees and other power generation people cannot also be innovative and creative. It's a very narrow sense of human nature to suggest that only the profit motive is what creates creativity.

The alternative is to build institutional memory that allows for smart, long-term innovation, to reward innovation with public acclaim and to provide, perhaps most important, the resources required to innovate properly. You cannot starve the system and then turn around and say that the public sector cannot create and be innovative. We need the funds to do it. Thank you.

The Vice-Chair: Thank you, Mr McDonald. That allows time for a question from the government side.

Mr Gilchrist: Thank you for your presentation. While I disagree with your perspective on the role of the private sector, at least we had one professor making sober comment before us here today.

I think there are a couple of elements in your presentation that I really must challenge. If the status quo and public ownership is so laudable, how did we get to \$38 billion worth of debt? Before you answer that, at the same time as you're applauding the publicness of Ontario Hydro, who loaned all the money that's paid for all of those things? All of the bondholders are private—private individuals or private companies. It is a 100% privately

funded entity and always has been, in the form of the bondholders, which, as you know, if you stopped paying the interest on the bondholders, they would have the right, no different from the bank loaning you money, to have exercised direct control. So, yes, nominally it is a public corporation that has turned to the private sector for decades and borrowed billions and billions of private dollars to do the good works that have been done. But along the way they continued to spend \$38 billion more than they took in. How do I reconcile that with your view of accountable public institutions?

Mr McDonald: I will just first of all comment on this notion of a sober presentation. I think it in fact represents exactly the kind of political culture that we have here in Canada that people are unwilling to engage with and accept different types of presentations and different ways of presenting ideas.

Mr Gilchrist: No, I used the word "sober" advisedly.

Mr McDonald: On the point on debt, I'm not going to defend Ontario Hydro unreservedly. There have been enormous mistakes and I have a lot of problems with the way Ontario Hydro has been run in the past. So again I want to make the point that we're not arguing here for the status quo versus privatization. We need to reinvent, reinvest and reinvigorate the public sector. That kind of debt that's been run up is problematic, there's absolutely no doubt about it, but there are other forms of debt, like the ecological debt that we need to take into account. Our narrow definitions of a financial debt are very problematic and we need to think about how we are going to take into account the ecological and social debts associated with rapid price increases, dirty power generation etc as a result of privatization as we've seen it around the world. I know that doesn't answer your question in full, but just that one comment.

Finally, with respect to private capital and where money is coming from, these are political decisions. There is a lot of money available for investment in infrastructure and a wide range of services. As we know, sewage and sanitation are woefully underfunded right now in this province as well. Massive investments are required there. These are political decisions that we need to make as Ontarians about where we invest our money. Do we give tax breaks to corporations? Do we give tax breaks to private schoolers or do we invest in basic infrastructure? These are political questions that we need to answer, as Ontarians and as public representatives, about capital flows in this province and in fact in this country and internationally.

So again your definition of, "Do we just source things from private capital? The state doesn't have the resources available. Therefore, we need to go to the private capital market," I think is a very narrow and non-politicized sense of how we make decisions about investments in infrastructure.

The Vice-Chair: You've used up all the time, I'm afraid. Thank you very much for coming in.

Mr Johnson: Chair, I'd be pleased to receive the report and I will turn it over to the clerk.

Mr Gerretsen: Just on a point of information, I don't think the fact should be forgotten that the bonds Ontario Hydro issues are guaranteed by the government of Ontario and the citizens of Ontario, so ultimately the government would be on the hook and the individual bond holders would not own the company.

KARL FLECKER

The Vice-Chair: Is Karl Flecker here, please?

Interjections.

The Vice-Chair: If we could save that discussion.

Welcome, Mr Flecker. You have 10 minutes to use as you please. You can speak the whole time or allow time for questions.

Mr Karl Flecker: First of all I want to thank the public sector workers and the community members for your skills and your time in organizing and preparing for today's public hearings on Bill 58, which I think is inappropriately titled the Reliable Energy and Consumer Protection Act.

To the members of the standing committee on general government, welcome to Kingston. Depending on your party affiliation, your visits to this town have been memorable.

My name is Karl Flecker. I'm a resident of Kingston. I work as the education coordinator for the Polaris Institute. We conduct research on international trade agreements, and trade and investment deals that are advanced by the World Trade Organization. We identify and expose the large transnational corporations that are unduly and undemocratically influencing these agreements. We contribute, along with others, to breaking down the legal and economic language of these agreements into a digestible form so that civil society can exercise its democratic right to engage in meaningful public debate and decision-making about crucial public policy decisions that affect our economies, our communities and our lives.

It's from this international perspective that I want to make a few comments on this bill today. Late last night I received some very tragic news that makes it even more pertinent to today's hearings. You see, there's this government and it's trying to sell off its electrical companies and other state-owned assets, supposedly for budget needs. This government failed to consult with its citizens in any truly meaningful way. They reneged on promises that they would not sell the utility outright and they ignored a court ruling that was laid down against their auctioning efforts of the people's power systems. Yesterday, this government leader had to cancel his trip to the USA and Nicaragua because civic protest had spread to six major cities.

People understandably fear the sale of their electrical system because they fear it will lead to job cuts, higher prices and little reinvestment in their region of the world. This government imposed military rule and at least one person was killed. Some 140 have been injured since last Friday. Strikes supported by civic groups and trade

unions are spreading throughout the country. Railways and roadways are being blocked, shutting down the manufacturing, processing and service engines of the country. This is happening in Peru right now. It's happening because a government is pursuing a very bad idea. Take heed of this story. It is not far away.

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When Ernie Eves indicated that his government might pull the plug on the hydro sale on May 16, he said something else that caught my attention. Ernie said that among the options being considered for the future of hydro, no foreign firm would be allowed to purchase the provincial utility. He said, "I don't believe it is in the best interests of the people of Ontario to have the transmission and distribution corridor in the province in the hands of a foreign entity." I say to you, any bill or government measure such as Bill 58 that enables the privatization of even a limited portion of our electrical system has the very real potential to overturn Ernie's statement of concern about foreign ownership.

On this, Ernie and I would agree: foreign ownership of our electrical system would be disastrous for the best interests of the people of Ontario. If this bill goes any further, then likely neither this government nor any future provincial government will be able to limit, stop or overturn the determined efforts of foreign energy service operations to have their controlling hands on our power systems.

This becomes so due to precise and consequence-laden language in trade agreements that have legal enforcement powers that supersede provincial legislation. When energy is no longer a service supplied in the exercise of governmental authority—and here I'm quoting from article I from the General Agreement on Trade in Services—then that service sector—energy, in this case—becomes subject to certain legally binding, enforceable WTO rules, rules that allow foreign corporations to operate without concern for national, provincial or, for that matter, local regulation.

Should this government proceed to privatize everything behind our wall outlets or even 49% of the system behind our wall outlets, then foreign ownership will undoubtedly come into play. Foreign ownership, with its priority concerns about profitability and increasing shareholder interest, will undoubtedly trump the best interests of the people of Ontario.

I've brought some articles with me to help explain this complex issue, and they've been circulated to you. The double-sided copy is just two of dozens of press releases and media stories about the GATS and the current negotiation process, with specific references to the electricity sector and its implications.

In a nutshell, this agreement is seeking to liberalize—translated, that reads "privatize and deregulate"—an enormous number of service sectors, including electricity. The GATS is seeking to promote foreign ownership, investment in and operation of these service markets by large transnational companies like GE, Halliburton, Vivendi, Eurelectric and, at one point, even the failed

Enron was an ardent promoter and player in this game. By passing Bill 58, this opens the door for foreign entities, the uncaught Enrons in the electricity-energy sector, like Reliant Resources Inc, which admitted it had engaged in bogus power deals for the past three years. Companies like this will be able to move into our energy sector and no governments will be in a position to pass limitation-based regulations, or regulations ensuring ethical marketplace disciplines, or environmentally sensitive regulations that value cleaner energy sources over more environmentally destructive energy sources.

Bill 58 is not unlike Bill 11 in Alberta, which opens the doors for the power tools of NAFTA to kick in, only in this case Bill 58 knocks down the doors for the corporate-friendly GATS regime to come in, shut off the lights and have its way with the citizens of Ontario.

The GATS obligates WTO member countries—Canada, and Ontario by inclusion—to open their electricity markets to foreign ownership and investment. I understand that not a lot of people know about the GATS or its implications at this level. That's because this deal has been cooked up for the most part behind closed doors with little public information or debate. I can't help but shake an odd sense of familiarity.

Nonetheless, in April of this year, as is often the case, determined civil society networks obtained and made public specific market access demands being made on Canada by the European Union under the GATS negotiations process. I've provided each of you with excerpts of that document here. They spell out clearly what is coming in terms of electricity. Recognizing my time is coming short, I'll be very quick.

Point 1, page 1, and I've highlighted these in each of your copies: energy services are clearly being identified as a target for liberalization—read “global deregulation and privatization.”

Point 2, page 3: any province in Canada that wants to establish market access preferences for Canadian or provincially located energy service suppliers in order to ensure that the best interests of our communities are being served—that's gone. The European Union is demanding that we remove this preference.

Point 3, page 3: any government, be it provincial, federal or First Nation, that wants to put limitation—and by “limitation” I mean representation limits, ownership percentages like 49% or residency requirements—on companies that carry out government interests like utility bodies or any Hydro One shops, forget it. The EU is demanding these limitations be removed.

Point 4, pages 4 and 5: the EU is demanding we open up to international privatization our operation of the transportation, transmission and distribution facilities related to energy distribution.

Page 5, EU demand: open up to international privatization our wholesale service operations on the supply of energy products, trading of energy products and brokering of energy products. Oh, one more thing: open up to international privatization all services related to the decommissioning of energy facilities.

Decoding trade agreements and negotiation documents is tricky business, but I've provided you with the URL of a Web site for the complete text of these demands in case you have a need to read 1,000 pages of very arcane language.

In addition, my last handout provides a much more accessible explanation of these demands and their implications. I urge you to flip to the second page, second box from the bottom, for the energy implications.

The key point I want to make is, Bill 58 opens the door for the GATS power tools and likely will shut off the lights on Ontarians' capacity to own our power system.

Wrapping up: should this government permit any level of privatization or sell-off of Hydro, it will mean our provincial regulatory capacity to give purchase preference to clean energy sources can and likely will be challenged by the WTO's GATS rules. We can be challenged by foreign energy suppliers, who can effectively argue that environmental and health preferences, which I hope everyone would agree are sensible, discriminate against them and their lower-cost, environmentally harmful energy sources, such as coal, win.

There are at least 15 cases we know about where such disputes have not found in favour of sensibility; rather, they have found in favour of marketplace disciplines. These cases have found in favour of corporate demands rather than public rights. Quite simply, this is because the GATS agreement does not have exception language for governmental measures to conserve natural resources.

In closing, this ill-named act will not result in reliable energy, nor provide consumer protection. Look closely—and I urge you to instruct your researchers—at others who followed the power liberalization route. There's an excellent book, called *Lights Off!*, from the Transnational Institute. A number of scholars have put it together. Also, if you don't want to look at that, look at a major study by a top corporate consulting firm in the US. This is a clip from the New York Times. They found that not even 80% of 500 large, mid-sized and small businesses were able to take advantage of savings that were to come from deregulation and privatization of the electricity sector. This is interesting, because the often-trumpeted state of Pennsylvania that this government holds up as its shining one-bulb illustration had to scramble to halt the exodus of businesses that were fleeing their borders due to high power bills.

Finally, I asked a number of my colleagues nationally and internationally what I should present to you today—what are the key points? Some of the best input I received was from Steven Shrybman, a lawyer with Sack, Goldblatt, Mitchell, who, along with CUPE and the Canadian energy and paperworkers, took this government to Justice Gans's court. Steve said, “Tell the members of this committee you recommend strongly to this government to drop this legislation and apologize to the people of Ontario.” I remind you, the experiences of places such as Peru are not far away. Thank you.

The Vice-Chair: Thank you. You've used up all your time. We appreciate your coming.

BILL FISHER

The Vice-Chair: Is Bill Fisher here? Welcome, Mr Fisher. You have 10 minutes to use as you please, or if you want to allow any time questions, it's your choice.

Mr Bill Fisher: I won't be reading from the script. Every member of the committee has a copy of it, I think, and I'll just summarize what I've got in it.

First of all, I'd like to introduce myself. My name is Bill Fisher. I'm a retired professional engineer and a retired public utility manager. I'm also representing about 1,400 members of the Frontenac-Kingston Council on Aging.

First of all, just to make sure everybody knows what we're talking about, Hydro One is the transmission and distribution arm of the old Ontario Hydro. As such, it is a completely interconnected system and, therefore, it can only be operated as a monopoly. The suggestion Mr Eves made recently that it be split and that 49% be sold to private interests is absolute nonsense, because you cannot run a monopoly with two conflicting interests. It's like having a horse with two rear ends. Under these circumstances you have to see that the people who are running it for the public interest are going to want to run it at cost, and the other people are going to want to run it for maximum profit. It just won't work.

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With respect to the links that we have with other jurisdictions, we have just standard transmission links with Quebec and Manitoba and also with New England. Those links are basically for emergency purposes, to take in supplies and to send out supplies when each jurisdiction gets into peak low periods. That's common.

The people in Quebec and Manitoba have publicly owned systems and they're perfectly viable. They've got lots of generation capacity so, consequently, there is no need to have a common grid with them because they are in the same position as Ontario to a large extent, except that their facilities are somewhat different.

With respect to the New England grid, the idea of joining into or having a solid mesh or link or grid with New England, as is being proposed by the people who are presently running Hydro One, would be an absolute disaster for the people of Ontario because, as you've heard, NAFTA would trip in and under these circumstances our rates would be going up to the New England rates in a very short period of time. Those rates, in the year 2000, for residential for the whole of the seven New England states, was somewhere in the region of about 18 cents or more, Canadian, per kilowatt hour.

You may be interested in knowing some data, because it's necessary to understand the rest of it. The depreciated value of Hydro One at the end of 2001 was about \$11.25 billion. The replacement value would be more than twice that, yet the government is blithely talking about selling off the whole shebang for about \$5 billion. The revenue in the same year, in 2001, was about \$3.5 billion, so therefore anybody who bought the system would have a really great deal. They would pick up the system for

about a quarter of its real cost and immediately have a revenue of that nature.

The debt from Ontario Hydro, which they assumed when the company was formed, was about \$4.8 billion. That has now been reduced to a little over \$4 billion and the new assets which have been acquired during that period have been over \$2 billion. The service lives of the equipment—once again these are taken from Hydro figures—are 50 years for the transmission system and 40 years for the distribution system.

We're being told that capital is really necessary from the private sector in order to make sure that we are going to keep the system together and make sure it works for the citizens of Ontario. This is absolute nonsense, taking into account the figures that I've just given you. Hydro One has somewhere in the region of three quarters of a billion dollars a year out of current revenue in order to get new facilities, so therefore they don't need private capital in order to survive.

They also talk about maintenance and the fact that many lines are giving problems to customers due to insufficient maintenance. Since Hydro One was privatized three years ago, there have been staff reductions, and anybody knows that in a service industry you cannot have staff reductions and still get customer service at the level that both industrial and residential people need. Consequently, this is exactly what has happened. All that is necessary is to fund more people, from the \$0.75 billion a year you have in excess, in order to increase the staff and improve the maintenance.

There is also talk about private sector discipline. This is one of Mr Eves's favourite themes; he talks about private sector discipline. At the same time, the experience Ontario has had from the semi-privatization of the two arms of Ontario Hydro over the past three years has been an absolute disaster. The people running these have been taken from the private sector, and what do we see? First of all, in the case of Hydro One, the CEO has given away the engineering arm to a private company, and Hydro One is going to purchase their services as required. As an experienced utility operator, I know it is absolutely impossible to run a proper organization without an in-house engineering staff. When you get to an entity of the size of Hydro One, it's absolute madness for this to have happened.

When you get to OPG, it's even more frightening. First of all I understand, although I haven't got anything to corroborate it, that they too have farmed out their engineering services to some company. It may be British Energy, I don't know, but then they leased the Bruce nuclear station to British Energy for about \$1.8 billion over the next 18 years. At the end of that time, British Energy walks away from it and the consumers are left with the cleanup costs, which could run into billions of dollars. It's estimated that the profit British Energy is going to make on this deal is going to be about \$10 billion over the next 10 years. Myron Gordon puts the figure even higher, but I tend to be on the conservative side—not politically. That is where it stands.

The Vice-Chair: Could you wrap up? You have about a minute.

Mr Fisher: OK. The solution to it is to get rid of all these privatization ideas, because they are not based on fact they are merely based on ideology. What they should be doing is to once again make Hydro One and OPG crown corporations. They should have a permanent, all-party committee to supervise both institutions. They should freeze the sale, lease or purchase of assets pending an orderly change of management, and they should recruit new management from among Canadian utility executives, who would be only too happy to come in from other provinces and take the thing over.

Right at the moment, the government has not had any real discussion with the Canadian public about this. In a democracy—and I should know about it, because I fought for it in the last war—you do not make decisions that change the course of a social system without getting the approval of the people first.

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There is another point that the government may have overlooked in its haste to privatize. Way back in 1927, the city of St Catharines took Ontario Hydro and the government of Ontario to court about ownership of the assets, and the Supreme Court of Canada ruled that the assets do not belong to the government and do not belong to Ontario Hydro; they belong to the consumers of Ontario. That opinion was upheld by the committee on government productivity of Ontario in 1972. I don't know exactly whether the government has investigated this, but they could be treading on thin ice.

I would like to address the last thing to the government.

The Vice-Chair: You've gone over your time. We appreciate your coming and making your points today. We have your complete submission here as well.

Mr Fisher: I've only got one more statement to make.

The Vice-Chair: Go ahead and make it.

Mr Fisher: I'm addressing it to the Conservative members of this committee. The polls show that about 70% of the people in this province are opposed to privatization. This has an eerie resemblance to what happened to the federal Tory party back in the early 1990s, when the leader of the party, seeing that the party was going down in the polls, abandoned ship and let the party go into an election facing the problems he had imposed on them, and the party was sunk without a trace.

The Vice-Chair: Thank you very much for coming in today.

GERALD ACKERMAN

The Vice-Chair: Welcome, Mr Gerald Ackerman.

Mr Gerald Ackerman: My case goes back 30 years. The area I was born in was off-grid until 1972, at which time my brother wanted hydro. In order to do that, there needed to be two poles on property I owned. Hydro paid me \$88 for setting the two poles there. Then they sent me bills for electricity, which I objected to since I was not

using any electricity, I didn't intend to use any electricity and haven't used any electricity yet. When I objected and threatened to cut the poles down with my power saw, they backed off.

That was then and this is now. This week, in trying to get a pole placement, which I understand is the authority of Ontario Hydro or Hydro One, I was given a toll-free number in Markham and I used it. I ended up, after the 17-item menu, getting a man who I think was desperately ill. He couldn't stop coughing while he was talking to me. He took my data and referred me to somebody else, who said, "When is your electricity due to start, what is your contract number?" and things like that. I tried to explain to her that that wasn't what I was requesting; I was simply requesting an authorization for the pole to be where I wanted it to be, which I understood was to be at my risk and at my expense and so on.

The short of it is that I've given up on Hydro One ever coming to authorize a pole placement there, and I have started to work with somebody else who will put a pole where I want it. It may well be used only as a telephone pole, because I am seriously looking at a fuel cell installation and being off-grid. You may have read yesterday's paper about the local fuel cell manufacturer who broke ground yesterday and who has a unit down in Yosemite park and a couple in California and over in Stockholm, Sweden, and in Japan. I'm very interested in being able to avoid Hydro One henceforth. I've been off the grid all these years, and I like it. I'd like to be off the grid on a continual basis.

The other point I want to make has to do with an item in today's paper about smog. According to the paper, the smog is apparently due to the sun and the northeastern US wind that blows industrial pollution this way. I'm unfamiliar with that wind. I've lived in this part of the world for a long time. I don't believe there's a wind that comes from the northeastern US to this part of the world. Some meteorologists may correct me, but I think I'm right about that. I think the real reason we suffer from smog and smog alerts in the province of Ontario is due to the major polluters of the air. Number one is Inco, I think, or maybe Ontario Hydro is number one. I'm not sure which is first and which is second. But my point is that as a citizen of the country and an anticipated resident of this province on a continuing basis I want Hydro One, Ontario Hydro or whoever in the world ends up with the responsibility to consider the environment, the air we're asked to breathe. Is that asking too much?

I have made the same complaints to a corresponding authority in Nova Scotia, where I'm currently living. We have natural gas in Nova Scotia at the present time, and the power company at Dartmouth, which is where the major city and the major population of the province are, has the technology in place to use twice as much natural gas as they used last year to generate electricity. I told them what I'm telling you, in the sense that what I want is air I can breathe and I don't want you to be using soft, high-sulphur coal. I do not want that. I don't think anybody else who breathes the air in this province wants

that. It isn't that the technology isn't known. It isn't that you don't know that natural gas is much less polluting than hydro, or certainly than soft coal.

My question for whoever is here from Queen's Park or Markham—I really don't know where you would find management for this organization, but I would like to address a question to the management of Hydro One or Ontario Hydro, whatever you want to call it, which is, what are you doing now to improve the quality of the air I get to breathe and that everybody else in this province gets to breathe? Are you investigating wind power, which is now apparently competitive on a per kWh basis? Are you investigating solar power? Are you doing anything with the fuel cell researchers? Are you planning to decommission the nuclear establishments, so that we don't have to worry about what to do with the waste, because we don't know what to do with the waste? This is the question I would like to ask if there's any management present from this organization: what are you doing now and what do you intend to do? Maybe I'll stay in Nova Scotia.

The Vice-Chair: Thank you very much. There's no management present from Hydro One, but there is time for a question from the opposition party. Would you like to ask a question?

Mr Gerretsen: I have more of a comment, I think. Both opposition parties in the House yesterday raised the whole issue about smog reduction and what the government was going to do about it. Of course, it's not the first time it has been raised; it has been raised for many, many years. I think the coal-fired plants have an awful lot to do with that, and Hydro plants have an awful lot to do with that situation.

As far as the individual questions that you have, there's nobody from management here. This is a legislative committee that is basically holding hearings as to whether Hydro One should or shouldn't be sold.

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Mr Ackerman: Can I depend on yourself or some of your colleagues to ask these very pointed questions of the management of Hydro One?

Mr Gerretsen: All I can say, sir, is that those kinds of questions have been asked continually and we will continue to ask them. Absolutely.

Mr Ackerman: What response do we get?

Mr Gerretsen: Maybe our energy critic would like to comment on that.

Interjection.

Mr Gerretsen: I'm not sure time permits that.

The Vice-Chair: Ms Churley?

Ms Churley: Just quickly, one of the major concerns New Democrats have about the privatization of the generating plants is that the coal-fired plants, which we're asking to be phased out, with more green energy and conservation and efficiency put in place, run only at peak times, but if they're sold they will be running 24 hours a day, seven days a week, to sell power to the US. So in fact, pollution will get worse under privatization. That is a major concern.

A NAFTA report on the environment just came out, and their studies show that privatization in other jurisdictions has drastically reduced efficiency and conservation programs and has indeed increased pollution. As the environment critic for my party, that is a major concern of mine.

Mr Gilchrist: In fact, I can give you some considerable comfort. The government commissioned a select committee; there were members from all three parties on it. On June 5 we tabled a report in the Legislature with 141 recommendations, the most aggressive, the most comprehensive program for consumer and business incentives and new product standards, to force the cleanup of our air by changing away from our current carbon-based energy use to green technologies. You'll find strong recommendations in there for wind, solar and biomass. You'll find recommendations about using new fuels in our vehicles. In fact, the budget last week already incorporated two of our recommendations. We've taken the road tax off biodiesel, so now you can go from having the dirtiest vehicle on the road, many of our diesel buses and trucks, to being completely benign. At the same time, we took the sales tax off SUVs and light trucks to complement the fact that we had already taken it off vehicles if you're alternatively fuelled.

So there's already progress out there and we recognize all the things that you've said. In that report, I think some of the strongest recommendations you'll find are for the complete closure of all of our coal plants.

We are ahead of Hydro. You can find that on the Legislative Assembly Web site or your local library could get that for you. If you have trouble, give us a call and we'll be happy to send you a copy of the report.

Mr Gerretsen: So when is the government going to implement all of the recommendations?

Mr Gilchrist: Mr Gerretsen, we've already started.

The Vice-Chair: Thank you very much for coming before the committee today. We appreciate your comments.

Mr Ackerman: Maybe I should report one thing from Nova Scotia. We have closed our high-sulphur coal mines forever.

Mr Gilchrist: It's long overdue.

PATRICK McCUE

The Vice-Chair: Is Patrick McCue here? Welcome, Mr McCue.

Mr Patrick McCue: My name is Patrick McCue. By way of introduction, I am a retiree. I retired in January 2001 and relocated from Thornhill, Ontario, to Kingston last July.

My working career spanned 39 years in private high-tech companies, the final 20 years spent in the human resources area. I have a positive view about the private sector and I certainly have no objection in principle to privatization. For example, we could do the LCBO next week, as far as I'm concerned.

However, I am strongly opposed to the privatization of the Ontario power system, particularly Hydro One. I commend the government on the announcement that privatization is off the table, but I am concerned that this may be a short-term position based on expediency. The reasons for my opposition are several.

First, the Ontario power system is one of the most valuable and critical resources in the province, in my opinion second only to the province's human resource. Virtually every individual, every business and every institution in the province is dependent on a top-quality electricity provider. The power grid is like the circulation system of a living organism. Without a healthy circulation system, the organism dies. Because Hydro One is so important, the risk in my opinion is too high to entrust control to a private board of directors and an executive team.

Privatization would be accomplished through an IPO, and immediately the company's success would be measured by profits, share price and shareholder satisfaction. In this environment, quarterly earnings per share become all-consuming. I believe this to be true because I have been there. My concern, then, is that the services to the citizens of Ontario would become secondary to the bottom line and, as a consumer, I would have little recourse. I believe I have a much stronger voice, through my member of the Legislature and our government, than I would have with a private company. I feel the citizens of Ontario can make a change if they disagree with the direction of a public company, but with a private company they can't make that change.

Second point, the recent revelation of the compensation packages of the management of Hydro One illustrates that the organization does not merit our trust. In my human resources experience, I saw many examples of executive pay. By the way, I believe in paying executives very well, because of the responsibility they carry. But in this case, I think the packages were excessive. The perks border on greed, in my opinion. If an IPO takes place, I expect that company shares, or stock options, would be added to these packages, making the situation worse.

Third, at one time, Ontario Hydro was renowned for its dedication to customer service. With the breakup of Hydro into its new components ie, Ontario Power Generation and Hydro One—and I believe there are others—with a confusing set of regulatory agencies, for example, the Ontario Energy Board, the OEB customer service centre and the IMO, I believe we are already seeing the organization distancing itself from its customers. As a customer with a problem, I recently had the challenge of trying to get attention in this maze. To say the least, it is a trying exercise. The biggest challenge is to find someone who is responsible and who cares.

Fourth, the province, in my opinion, does not have a good track record when it comes to privatization. For example, when I lived in Thornhill I was a regular user of Highway 407. It is doubtful if the province received fair market value for this asset. Shortly after privatization

there were several increases in fares, with apparently no regard for the consumer. Now, information is not available, but I suspect the new owner is reaping windfall revenues, having carried none of the risk of the original investment.

Minister Stockwell has said the current situation cannot continue, referring to the large debt carried by Ontario Hydro. This is probably true, but privatization is not the solution. Presumably there is a financial model which was to be the basis for the planned IPO. This model would be described in a prospectus and would have resulted in profits to justify the planned share price. For example, the profits of Hydro One in 2001 were \$374 million. I see no reason why this model could not apply to a public organization, with the surplus being used to retire the debt.

In summary, thank you for the opportunity to express my views. I urge the committee to sponsor an approach that keeps the control of Ontario's power system within the provincial Legislature and the citizens of the province. Failing this, and because of the critical importance of the system to the province, if privatization continues to be the government's direction, I believe it should be put on the table in the next provincial election, fully debated and decided upon by the electorate. Thank you.

The Vice-Chair: Thank you very much. That allows two minutes for each party. Go ahead, third party.

Mr Howard Hampton (Kenora-Rainy River): I want to ask you about the debt issue, since the government has talked about that from one end of the province to the other. Did you have a chance to look at the actual privatization IPO prospectus?

Mr McCue: No.

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Mr Hampton: It's very interesting. When you look at investment strategy, they talk about how a privatized Hydro One would build a transmission cable under Lake Erie, at a cost of several hundred million dollars, that would, shall we say, enhance the transmission upgrade through Niagara into New York state at the cost of, I think, about \$100 million, and then about a \$50-million enhancement of the transmission grid into Michigan. But nowhere was there a discussion of a strategy of investing in the transmission system within Ontario.

The corporate investment strategy described in that privatization prospectus was all about buying up transmission lines in the New England states and buying up transmission lines in the US Midwest. Then, on I think page 47 of the prospectus it says the corporate goal is to connect low-cost Ontario generators with markets in the New England states and the US Midwest. In other words, there's an opportunity to make a lot of profit here. But there was very little discussion about debt, and there was no discussion about there being a priority of investment in Ontario, which led me to think this isn't about Ontario; this is all about moving as much electricity south as possible.

As somebody who has been in the private sector, my question to you would be: a profit-driven corporation

would want to maximize profits as quickly and as easily as possible. Am I right?

Mr McCue: I wouldn't want to overstate it, but profit is clearly, I would say, the number one objective. Profit is usually based on providing very good customer service too, so you've got to be balanced. But profit is important.

Mr Hampton: What struck me was that it seemed like the customers a privatized Hydro One would want to concentrate on would be in New England and the US Midwest, since that's what the corporate investment strategy, as described in the prospectus, was all about. There is very little discussion about Ontario consumers.

Mr Gilchrist: I appreciate your comments and your coming before us here today. I appreciate that you've just recognized something we haven't heard all that often: companies only make a profit when they deliver good customer service and deliver what the customer needs. We heard a comment from a previous presenter that their motive would be to shut down the province. Well, if a company shuts down the province, I fail to see how it is going to make any money.

As an aside, I would like you to know that in the Highway 407 corporation's last financial report, they lost money, a lot of money, and they paid twice the original cost of that highway when we sold it to them.

Mr McCue: Is that a public document?

Mr Gilchrist: Yes, it is. I read it in the Globe and Mail. There too, it seems to me, it's only a good deal if you make money.

Sticking with the topic at hand here, we have said it's off the table. A lot of the opposition comments deal with a scenario that just is not going to take place. But speaking theoretically about any role for the private sector, lost in this debate is the fact there is a huge debt out there that is costing you and me and every other Ontarian 35% of the cost every month on our electricity bill.

For a company to make money, they have to invest their own equity. I recognize the profit motive, but would you not agree with me that their equity then reduces the debt of the corporation, which reduces the interest cost? Let's say I sold Hydro One for \$11 billion or half of it for \$5.5 billion. The Ontario government obviously pays no interest to bondholders for \$5.5 billion. Would that not be correct?

Mr McCue: That's right.

Mr Gilchrist: At 8%, in that mathematical model, the first \$440 million in profit that the corporation makes really hasn't cost the consumer a penny, because you've seen the debt service cost drop by that amount, and anything up to \$440 million, the consumers wins. It's not a model we're heading to, but lost in this debate is the fact that nobody is going to get anything for free. We haven't said that in any discussion, and we never will for any asset. We're not going to give it away. But if you sold an asset, you've got the money from that sale, and that obviously saves you money, doesn't it?

Mr McCue: Right. First of all, I'm totally in support of reducing debt. I totally support what the federal

government is doing to try to drive down the debt. I would hope we could do the same thing in Ontario. Certainly I don't espouse living on debt. I'm concerned about the control. I believe we can find a way to deal with the debt, but I don't really think we should lose control of this asset.

Mr Gilchrist: We agree.

Mr Gerretsen: It may be off the table today, or the majority sale may be off the table, but make no mistake about it, section 49 of the act is very clear: if passed, the bill gives the government the right to sell Hydro One at any time. Who knows what the position is going to be tomorrow? I'm not concerned about whatever the position happens to be today; I'm concerned about the power they have.

The question I have of you, and you put your finger right on it: the average person out there doesn't know who the heck to call any more, there are so many different organizations. If you as an executive couldn't figure out who was ultimately responsible, how do you think the average person out there feels?

Let me put one theory to you, and I'd like your comment. I believe that governments of all stripes over the last 100 years have used energy prices as a method of economic development in the province. Energy has been sold cheaply to large organizations in order to build plants from which we have benefited—people have come etc. I don't think all the stranded debt that's out there necessarily has anything to do with Ontario Hydro—the actual cost of producing the hydro etc—but it has a lot to do with the policies for the development of our province over the last 100 years. I wonder if you have a comment on that.

Mr McCue: The fact is that the debt is there. It's there either for a good reason or a poor reason, but it's there. So we have to deal with it, and I believe we can do that.

This organization generates a huge amount of cash. It's a cash machine. It's a question of how effectively we manage it and what the priorities are. Some of the priority has to be to get rid of the debt, but it can be done.

The Vice-Chair: Thank you very much for coming in today. It was very interesting.

Mr Hampton: Could I just add one comment?

The Vice-Chair: I'm sorry, we've used all the time.

LEEDS COUNTY CONSERVER SOCIETY

The Vice-Chair: Is the Leeds County Conserver Society here? Welcome.

Mr Paul Gervan: Good morning. My name is Paul Gervan. I'm a member of the Leeds County Conserver Society, a long-standing environmental group in rural Leeds county. I live about half an hour north of here, in the Seeleys Bay area. I own and operate a private importing trading company. I'm a graduate of Queen's University in chemical engineering. I had early experience in my professional life here in Kingston as a consulting engineer working on an energy-from-waste program in the late 1970s. I also was worked for a short

time for the federal Department of Energy, Mines and Resources as project manager of Kingston's energy conservation centre in the late 1970s and early 1980s.

At that time, we were actively proposing and advocating a very simple solution to the energy needs of Canada and Ontario through conservation and efficiency. You may recall at the time that the federal government put forward a report called *Canada as a Conserver Society*. I think it was in 1977 or 1978. I contend that the answers to almost all our current energy problems and our responsibly dealing with the environmental problems that ensue really reside in a lot of this earlier work.

As a result of my frustrations at that time in trying to bring about this conserver society, I became an energy activist and was involved quite actively over a period of years in opposing the current energy mix we have here in Ontario. Principally at that time, in the late 1970s and early 1980s, it was the Davis government pushing very hard for the nuclear future. You may recall there was a vast advertising campaign, *Go Electric*, promoting electric heat and all forms of madness and ways of inappropriately using the resources we currently have.

1130

I prepared a few notes today, but I'm not going to add to the paper you folks have with you. I'm not going to attempt an in-depth critique of Bill 58. My point is really quite simple. We've known for some time, as we do today, that clearly the most responsible and fiscally responsible thing we can do—that any government can do—is to pursue a very active and aggressive campaign of energy efficiency and energy conservation, so that we don't need to produce more energy, we don't need to export more energy, we don't need more transmission grid, we don't need more sources of energy; we just need to use the energy we have more responsibly, both environmentally and fiscally.

I would contend that the mess we're in and the debt we've been discussing this morning, the \$36 billion, is almost directly and totally attributable to the Conservative government's folly in pursuing the nuclear option against the best advice of many knowledgeable people in the field at the time, and in the years that have intervened, there really have been very few meaningful conservation programs. The government has been very slack in approaching conservation.

This gets to the nub of my argument: a privatized Hydro One, being a private corporation, would have no incentive whatever to control or moderate the use of electricity in any way, in fact quite the opposite. It's selling a product, and it behooves it to sell more of that product. It's transmitting the product and making its money by transmission; therefore, the more transmission, the more export.

As has been explained earlier, the current plans for further transmission lines to the United States would mean that a good number of our current fossil fuel-fired plants, as well as the nuclear plants, would be running full out to meet that export market. The result of that, of course, would be more bad air days like we have today. I

live half an hour north of here, and this morning my farm was in smog. Smog is no longer a Toronto problem; it's all of ours.

The reason we're living with this today is because we in Kingston are downwind from Lambton, from the Lakeshore coal plant and from the Nanticoke coal plant. By the way, the Nanticoke coal plant, one of the largest coal-fired plants in North America, was built in the late 1970s and early 1980s, at a time when it was well known that it was totally irresponsible to build a plant that size, or of any size, without coal scrubbers. It was built without coal scrubbers. It was just a very foolhardy and irresponsible approach to the future of our air here in Ontario.

My argument, then, is that the privatization of Hydro One would militate against any meaningful conservation measures being put in place and would be a disaster in terms of more and more of the product, more and more energy being used and distributed, and the resultant air quality degradation would be quite obvious.

From the rural standpoint, as a rural resident, although I've had my ups and downs with Ontario Hydro, I must say that most of my neighbours who remember rural electrification have a rather more benign view of Hydro. It certainly was somewhat reassuring during the ice storm a few years ago to know there was a public utility that wasn't necessarily blindly pursuing dollars first, and that came out and did what they could to restore our power. I would say that in an overall view, rural people are apprehensive about energy security in the hands of a privatized corporation.

The last point I would make with regard to this move is regarding the broader issue of globalization. I think we can see that privatization of Hydro One would be a substantial erosion of public political control of a corporation we've grown to expect to respond to our needs and would put more of it in the hands of multinational corporations. This move to globalization has been deadly for our farm industries. We find that more and more subsidies and so on tend to support larger industrial farming and have resulted in the atrophying of small, more diverse farms.

It should surprise no one that my view is that the first, second and third most important things we need to do are conservation, conservation, conservation—efficiency, efficiency, whatever. There is a vast amount of information out these days dealing with hyperefficiency and biomimicry, in which we can achieve, in large part, the industrial and commercial goals we have in this province with a fraction of the energy we are currently using. I think it would be a crime if we continued any further along this path of more supply and export of energy without dealing with conservation and efficiency in a very aggressive way. Of course, renewables—wind, tidal, geothermal, photovoltaics and passive solar—are all options we must pursue, but we must not be diverted. The thing we can do today to alleviate the smog we're facing is institute heretofore untried but very necessary aggressive efficiency and conservation objectives. We can use less and live better.

I think that in many ways this \$36-billion debt I alluded to earlier is really a result of the current course of inaction with regard to intelligent use of energy, and that we're being made to pay for that with the loss of control. I believe the public would be better served with complete public control of Hydro One and, in fact, OPG.

That's about all I have to say. I believe we really need to take action. The Conservative member, Mr Gilchrist, is talking about all the plans the Conservatives have for efficiencies and a new regime, but we've seen those now for 20 or 25 years, in the hands of the Liberals and other parties as well, and unfortunately no political party has had the gumption to take the steps necessary to move toward a conservator society.

ONTARIO FEDERATION OF AGRICULTURE

The Vice-Chair: The Ontario Federation of Agriculture is our last presenter this morning. Please introduce yourself.

Mr Allan Gardiner: Welcome to eastern Ontario. My name is Allan Gardiner. I'm an executive member with the Ontario Federation of Agriculture. I've been with most of you at some time in my career with the Ontario Federation of Agriculture.

I appreciate being able to speak with you this morning. You've certainly gotten a pile of information in the hour and a half I've been here. Your homework is going to be tremendous.

I have a presentation that our electricity committee has worked on since our first meeting with Energy Minister Wilson, I believe on April 4, 1999. Why the Ontario Federation of Agriculture got involved with this as agricultural producers—I'm also an agricultural producer; my family and I farm in Lennox and Addington county, and I'm a past warden of that county, so I have a great feel for the economic value we have in our agricultural producers. We are looking at the reliability and the reasonably priced cost to us to produce food for you using hydro.

1140

We're calling our presentation this morning "Using Hydro One to Build a Future." I'm sorry I didn't bring a complete copy for all; I didn't know how many I would need. I understand your clerk said that when you get back to Toronto, each member will be given a copy. I appreciate that. I'm not going to take a lot of your time. I'm going to briefly go over several points in the presentation.

The Ontario Federation of Agriculture speaks for over 44,000 farmers in Ontario, both large and small producers. OFA believes the following suggestions, if followed, will provide needed comfort and support for consumers, renew Hydro's positive role in Ontario and pay the debt.

Ontario is used to and generally pleased with the ownership of power lines where owners are motivated by the need to ensure reliable service. It has worked without

a hitch for over 90 years using PUCs in most Ontario cities, and worked very well until recently in rural and small-town Ontario using Hydro. The PUCs were effectively regulated by the fact that they were elected and competed with each other to provide good service at low cost in order to make their towns good places to set up business and to live. A great many Ontario people think this kind of public ownership of such natural monopolies works, and works well. OFA is proposing a PUC model for Hydro One.

Transmission: transmission is a natural monopoly and a public utility. OFA believes it should be owned and run by Ontario. It has no competition. It provides an essential service in connecting generators to local distribution nets. This focus must remain its core business.

Distribution: OFA recommends the PUC model for local distribution. PUCs are now called local distribution companies, or LDCs. The vast majority of Ontario's population has PUCs, and PUCs work. What little debt they have is in line with their ability to pay. They have had no failures and they have a great service record. PUCs compete with each other to make their areas better places for business and to live.

Raising funds for maintenance and growth: the PUC model would raise funds in several ways. The municipality could lend the PUC funds. The PUC could collect contributions in aid of construction from consumers. PUCs could set rates to fund growth. PUCs could fund growth or maintenance out of retained earnings. In no case would the province be called on to guarantee or assist in funding growth or repairs or maintenance. The costs would be borne and raised locally and local people would enjoy the results.

The debt is in two parts. The stranded debt is to be paid from the profits of Hydro One or OPGI and from selling these entities. If Hydro One were sold, it might bring the province as much as \$7 billion. If retained, Hydro One will bring the province \$450 million per year from 2003 on, not including taxes, which Ontario will collect in any event.

Summing up: apart from protecting the environment, the need for a public role in building or running generation is largely past. The Ontario Federation of Agriculture encourages a market in the generation of electricity and asks that price setting be made more competitive than the present price rule will allow. We also believe that transmission should be owned and run by the province, and that new assets should be built with consumer participation. This again is the PUC model for transmission.

The Ontario Federation of Agriculture believes every effort should be made to extend the PUC model to distribution for rural and small-town Ontario. Hydro One distribution assets and the appropriate shares of Hydro One debt should be sold or given to those municipalities.

The Vice-Chair: Thank you very much. That allows time for some questions. This time it's the turn of the government to start.

Mr Johnson: Allan, thanks very much for being here this morning and for making the presentation. I'm getting

kind of old. I go back to hearing my parents talk about the expansion of hydro into rural Ontario where they had to collect, I forget if it was two or three customers in each concession up and down the townships, in order to get the hydro line extended. So I guess I want to know from the rural or the farming group you represent how you feel about those kinds of expansions that need to be done and how they will operate under the model you're suggesting.

Mr Gardiner: Some of them will of course take care of themselves. It's interesting to know that in the 1940s farmers were so interested in obtaining electricity that the hydro came along and there were no easements. In our family farm operation, just last year we purchased another farm because our son is part of our business now. There were two wooden poles in the middle of the field and even the lawyer missed that there was never an easement. So what happened there was that people were so interested in having, or wanted, hydro so badly that they gave that. That would never happen today, Mr Johnson. It's a pay society. But I think it would probably take care of itself in today's market.

Mr Johnson: I also want to point out that in the part of Ontario I represent—all of the county of Perth and part of Middlesex county—Perth has a substantial number of Mennonites, of older Mennonites and Amish who don't use electricity at all. They probably aren't a supporter of your organization and politically they are inactive as well. I was wondering about the concept of those. We had a presenter here today who might choose to go without electricity. Is that still an option in—

Mr Gardiner: Certainly. It's a democratic situation. All farmers with a certain income are members of a general farm organization, but the Mennonites have a religious exemption, so there would be no problem. We also know that some Mennonites may not have it in the house but they have it in the barn, and sometimes they have a computer in the barn too.

Mr Johnson: Sometimes they have a telephone on the pole that's out in the middle of the field too. Thanks very much for your presentation.

Mr Gerretsen: Nice to see you again, Mr Gardiner. Your comments about the utilities are interesting, because of course this government did away with all the public utilities in the various municipalities. It was always my impression—mind you, I was biased; I was on the public utilities here in Kingston for eight years—that in areas that had public utilities, there was a feeling that the consumer could at least talk to some of the elected members of these utilities to discuss problems and issues, which wasn't always there in the Ontario Hydro sense. Anyway, that's all done away with now and it's looked after by councils and there may not be the same kind of direct connection as there was the last time.

Just to get to your utility model for rural Ontario, are you suggesting then basically, or is your organization suggesting, that the old-style utility companies be set up within geographic jurisdictions that Ontario Hydro currently covers, let's say along county lines, or bigger than that?

Mr Gardiner: That's something that can certainly be looked at, but it can be done regionally etc, and once it's set up it's self-sufficient.

Mr Gerretsen: And these people would be elected?

Mr Gardiner: Yes, definitely. That's why a lot of the small PUCs were very valuable. As you and I both know, there were some small towns in eastern Ontario that got well over \$10 million for their PUC. We know one within a 20-mile drive here that had a reserve of \$460,000.

Mr Gerretsen: Of course some of us have real problems with the fact that Ontario Hydro went out there and bought all these utilities that now I guess are going to be sold into the open market or something like that.

Mr Gardiner: Again, as a farm operation, we were looking at it through our committee system and representing our farm membership across as having reliable, reasonably priced power.

Mr Hampton: Do you find it a bit strange that Hydro One, under this government's direction over the last two years spent \$600 million, we're told, at inflated prices, buying up local PUCs, and now the government says the corporation has an unsustainable level of debt? Do you find those two things a bit bizarre in the context?

Mr Gardiner: Mr Hampton, I certainly had a point of disappointment when some of the PUCs went. As a past local politician and warden of my county, and seeing how those PUCs worked, I did. The way the Hydro situation has gone now, the office on the Sydenham Road here in Kingston, when someone phones now, they get someone in Markham, or on Woodbine Road. That is not acceptable, I don't think, and that's something where we're saying that in a PUC model it localizes it somewhat.

Mr Hampton: The other point I wanted to go over with you: I listened very carefully and your point is that, if you look at the revenue flow into Hydro One, the revenue flow is so consistent and so significant that it is the revenue flow we ought to be focusing our attention on. I believe I heard you use the figure of \$450 million a year?

Mr Gardiner: Yes.

Mr Hampton: So you're saying over a 10-period that's easily \$4.5 billion, perhaps more, and that we should not be giving up that revenue flow; in fact, that's the key way to maintain the transmission system and to maintain what is obviously a very important public asset?

Mr Gardiner: Yes, and it should be self-sufficient. If it had been self-sufficient before, the debt wouldn't have been there, would it? You know, we wouldn't have—

Mr Hampton: Actually, I agree with one of the previous presenters. Where the debt was racked up was overwhelmingly on the generation side and it was the previous Conservative government that had a love affair with nuclear power.

Mr Gardiner: I'm not here to debate that, sir.

Interjections.

The Vice-Chair: Thank you very much, Mr Gardiner, for coming to this committee today.

That wraps up this morning. Thank you, all those who came this morning. This committee stands adjourned until 2:30 in Ottawa.

The committee recessed from 1153 to 1429 and resumed in the Crowne Plaza, Ottawa.

DISABLED AND PROUD

The Vice-Chair: I'd like to call this meeting to order.

Is a representative of the Crystal Beach/Lakeview Community Association here? Is there a representative of the Poverty Awareness Week Committee? How about Disabled and Proud? Very good. If we could have you start, that would be great. If you could, please state your name. You have 10 minutes to use as you wish. You can speak the whole time or allow time for questions, whichever suits you.

Mr Charles Matthews: I'm a little in advance here so I wasn't quite prepared to speak right away, but here we go. It's a short presentation, so I've allowed a little bit of time for questions, if anybody might have them.

First of all, my name is Charles Matthews. I'm president of an organization called Disabled and Proud. We represent at the present time the disabled community here in Ottawa. We have over 1,100 members in the Ottawa area alone and we also have members from across the country. We are in the midst of going national. Thank you for hearing us today on this very important topic.

Disabled and Proud is a not-for-profit organization that represents the disabled community in Ottawa and several other disabled persons across Canada. Many of our members are on one type of subsidized income or another. With this in mind, we are presenting the view that the government should not sell off any part of Hydro One or turn any control to anyone else, but instead to remain in control of the most valuable asset and do what is right for us, the stakeholders in this corporation.

Electricity is a utility that no one in this country can live without, especially the disabled. As an example, as you can see, I am in a scooter that needs electricity. It's not only for regular things at home but also for our apparatus. As this government has stated by defeating Bill 118 on second reading, the government has given the disabled community that rely on ODSP the message that, since we are not getting an increase in our incomes, we must now rely on you not to increase any of our other costs as well. How can we possibly afford to take a chance on a private company increasing our costs?

We also are here today to ask, maybe even demand, that Hydro One work on the cost for hydro so that, when you sell to our local suppliers, you can do it on a cost-plus basis rather than on what we perceive as being a profit-down basis.

Hydro One is at the present time our most valuable asset and we should not sell any part of our most treasured asset. Many of the systems that the government has put in place and privatized have gone wrong. A good example of this is when you cut hospital costs and

institutional costs by having patients living in their own homes with health support. The CCACs have been set up to administer the system. Well, look where we stand now. The CCACs receive monies to administer home care. They in turn hire, then contract out, work from other organizations who then pay an actual homemaker to do the work. The net result is, only one third of the cost of supplying the service is actually going to the service and the rest is administration.

In light of this last statement we have come to understand that the administrative costs have to be looked at in Hydro One. It is disturbing that our executives enjoyed salaries in the neighbourhood of \$2.2 million when their counterparts in other provinces are in the range of \$400,000 to \$500,000. We also have come to understand that some of their pensions are worth over \$6 million. The government has been aware of this since 1999. I guess these individuals will have no problem paying their hydro bills. We do, however.

We would like to see the government appoint an independent body to oversee electricity in our province. We mean at arm's length.

All our members are voters and 85,000 disabled persons live in Ottawa alone. That represents almost 20% of the population of the voters. If an election were to be held today, and if the government ran on this issue, Hydro One, I am sure that the government would have to move their desks to the other side of the House. All we are asking you to do is what is right and really listen to what your constituents are saying: do not sell any of Hydro One.

To summarize my presentation today, I am asking that you allow the disabled community to continue being able to pay our bills and keep costs down. We can't afford for a utility like Hydro One to make profits from the people who can least afford them. Thank you very much.

The Vice-Chair: Thank you very much. The official opposition, would you like to go first?

Mr Richard Patten (Ottawa Centre): Thank you, Matthew, for coming here today. I can well imagine the concern of you and your group, which has to live so close to the line on so many variables. So your big concern is really that you feel that if this were privatized, we would lose the ability to contain costs, as well as the multiplicity of services that would be added on the private side.

Could you explain to me, though, your comment—I'm not an economist or a financier, so I don't understand it—that "Hydro One work on the cost for hydro so that, when you sell to our local suppliers, you can do it on a cost-plus basis rather than on what we perceive as being a profit-down basis"?

Mr Matthews: Basically we'd like to see—what are the net costs? Being a utility, a thing that's owned by the people, what is the cost of supplying the service; in this case, electricity? What is the total cost of supplying that? Then working on your administrative costs that have to be put in there—that's fine. But if you start looking at profits and all these other things, this is where we're going to get hurt; also, the amount of administrative

costs. If it goes into private hands, what we're scared of is that there's not going to be any control over this. We'd like to see the control remain at the government and basically not have this in the private sector.

Mr Patten: Do costs include a portion of the stranded debt that's being carried at the moment?

Mr Matthews: That I'm not qualified on.

The Vice-Chair: Would the third party like to ask a question?

Mr Hampton: What I'm interested in is the comparison you draw with how home care is now provided. If I follow your paragraph, your point is, now that home care has essentially been turned over to profit-driven companies, you're in effect faced with the Ministry of Health, which has an administrative structure, and then you have the community care access centre, which has an administrative structure, then you have the private sector corporation, whether it's Olsten or one of the other profit-driven home care providers who want their administrative costs covered, plus they want their profit, and then you have the actual health care providers, the workers. I take it your point is that with all of these new commission-takers, profit-takers and all these new levels of administration, you're seeing less of the actual health care dollar go toward delivering home care and more of it being siphoned off by people who want a commission, who want a profit or who want their administrative level covered.

Mr Matthews: Exactly. If I might follow up on that: for instance, I'm not sure of the exact dollar amount that goes to the CCACs, but the amount that goes to visiting homemakers, say, is approximately \$24, of which they pay their employer about \$12. I was told it's actually a lot bigger than what I mentioned here; I talked about one third actually going to the homemaker and two thirds going to administration, but from what I understand, it's only about one quarter of the cost. I've been corrected on that. But this is what happens when you have so many different levels in it. For instance, if you go to privatization, they're there for one reason, to make a profit, and they want to make money on it, so why cut the pie up further?

1440

Mr Hampton: Certainly one of the points that has been made over and over again, in Toronto and in Kingston earlier today, is that with a number of profit-takers, commission-takers, fee-takers, added on to the cost of hydro, that will in effect force the price up for the consumer. The figure that matters to the consumer is the figure that appears at the bottom of the bill, which adds up all of the new fee-takers, commission-taker, etc. Your concern is that privatization is going to lead to a figure at the bottom of the bill that is much higher than it has been.

Mr Matthews: I agree with that. Basically, it is also that we're looking at this as for instance Hydro One being the wholesaler and then of course a place like Ottawa Hydro being the retailer. Therefore, if you have the wholesaler increasing their costs, what's going to happen at the retail level?

It's very scary right now. The disabled community is not only being scared by all these other increases in the cost of living, but now they're even worried that they won't be able to afford to plug in their scooters or, for people who need air conditioning, they won't be able to afford to run their air conditioners in the future. It's very, very scary.

The Vice-Chair: Thank you very much for coming in today and making your presentation. We appreciate it.

Is Crystal Beach/Lakeview Community Association here, or Poverty Awareness Week Committee?

MICHAEL CASSIDY

The Vice-Chair: Michael Cassidy, I know you're here. I just said hi to you a minute ago. You have 10 minutes to use as you please.

Mr Michael Cassidy: Thank you very much, Mr Miller. Most of you will know that I am a former NDP member of the Ontario Legislature, and you probably also know that I served as a director of Ontario Hydro for six years from 1991 and, during that period, was a member of the board's audit committee and chair of Hydro's social responsibility committee.

I want to make three major points in the short time that's available to comment on Bill 58. If there are questions, and you could extend that a little bit, if other people are not rushing forward, I'd welcome that.

First, despite the contrary assurances made by the provincial government as recently as last week, there is nothing in Bill 58 to prevent a complete privatization of Hydro One and its removal from any form of government control. Promises by politicians are hardly worth the paper they are written on these days, I'm afraid to say, having been one. The government's assurance that Ontario will retain a majority control of Hydro One should be incorporated in Bill 58. It's not bankable if it's just words uttered by the Premier or by the minister.

Second, since taking office, Premier Eves has made it clear that he's trying to take an approach to government that is different than that of his predecessor, Premier Harris. There is nothing in Bill 58 to reflect the calmer and gentler approach that Mr Eves has indicated he wants to adopt.

Third, one of the legacies of the Harris government for Ontario Hydro and its successors has been a period of constant turmoil, culminating in the move to fundamentally change the Ontario electricity market beginning in May of this year. The government's actions since the successful court challenge to its initial public offering for Hydro One have added to that confusion. Ontario citizens and businesses need time to absorb the changes in electricity management in this province that have been so rapidly imposed by the government. A rushed adoption of Bill 58 with little public consultation or expert examination of its implications will add even more confusion. At the very least, I would suggest that Bill 58 be kept open for consultation over the summer and not return to the Legislature until this fall.

Going back to those points: first, the limits on privatization. The rationale given by the government for Bill 58 is that if Ontario's grid and Hydro One's local transmission activities are run by the private sector, they will be more efficient and effective. Therefore, despite government assurances, the door is left open in the bill for complete privatization.

I am very skeptical about the rationale offered by the government, particularly in view of such studies as the Consumer Report review in the United States, which indicates that the cost of public power in the US is about 20% cheaper on average than power from privately owned utilities.

I am also concerned that even if the province were to retain 51% ownership of Hydro One, the company will be effectively run as a private entity by one or two large minority shareholders. Public power through Ontario Hydro has served this province well through most of a century. The current problems with electricity in the province can be traced back to the determination of a Conservative government to continue massive investment in nuclear power in the 1980s. The fatal mistake for which we still suffer was the Davis government's decision to proceed with Darlington, a project whose costs turned out to be almost four times the original estimate of \$4 billion.

Section 49 of the proposed Bill 58 states, "The Minister, on behalf of Her Majesty in right of Ontario, may acquire, hold, dispose of and otherwise deal with securities or debt obligations of, or any other interest in, Hydro One Inc or any of its subsidiaries." Subsection (2) allows the Minister, on behalf of the province, to "enter into any agreement" needed to exercise this power to hold shares and to dispose of them. Sections 50 and 50.1 appear to enlarge on this power to provide the government with even more options.

What this amounts to is unequivocal power for the government to sell as many shares in Hydro One as it cares to. In other words, it could go forward with the initial public offering which Bay Street financiers have had in their dreams for months.

As I state below, I believe the wisest course at this time would be for the government to withdraw Bill 58 and create a breathing period before any more massive changes are imposed on what is left of Ontario Hydro. Failing that, I urge that the committee amend these sections of Bill 58 in order that there is a legislative guarantee to support the promises of the government that Ontario will maintain majority control of Hydro One.

Second, the kinder, gentler approach: this is what Premier Eves seems to want and has been saying since taking office. He wants a kinder approach than Mike Harris's. We've had radical and often regressive change thrown at us steadily for seven years. Mr Eves and his new colleagues are just beginning to pick up the pieces as the consequences of the Common Sense Revolution start to be felt in hospitals, in education, in home care, in the environment, in fact throughout the Ontario government. If so many things have gone wrong from the govern-

ment's initiatives to date, I suggest it would surely be wise for the government to take the unexpected setback to its Hydro One stock market issue as a warning sign, a sign to slow down so that Ontario can catch up or correct the multitude of changes the government has imposed since 1995.

Hydro One's accounts show that it has a stable basis of revenue and earnings sufficient to pay the carrying costs on its loan capital. Its annual profits currently equal about 7% of the shareholder equity held by the Ontario government, a decent if modest return. There is no significant gain to be made by selling off Hydro One since any cash received by Ontario will have about the same yield as what the province now receives in Hydro One dividends. In other words, take in cash, pay down in debt, and you're in the same position if you just simply use the dividends from Hydro One to pay the interest and carrying costs on outstanding debt.

Finally, too much rush, not enough thought. I can understand that the government was piqued by the court decision that derailed its proposed public offering of Hydro One shares this spring. But that is not a good reason for rushing through an ill-considered patch-up job which leaves as many questions unanswered as before. It seems as if the Premier and Minister Stockwell have come up with new solutions for the future of Hydro One almost every week since the court decision this spring, and many of these solutions are contradictory. Citizens of Ontario can be excused for being confused at what is going on.

Bill 58 had only three days of debate in the Legislature. These hearings of your committee with the public were hastily organized and extend over only two or three days. With the summer recess around the corner, I suggest the Legislature is unlikely to have time to give appropriate consideration to this bill.

I recommend that the committee acknowledge this problem and report to the Legislature that more time is needed before this new attempt at some form of Hydro One privatization proceeds. Hold some hearings over the summer, allow for more reflection and for comments from experts who can hardly provide a considered view on the bill when witnesses come before you for only 10 minutes at a time. If Bill 58 must proceed, let this occur in the fall, and let it be with amendments that at the very least ensure that the limits on private ownership of the corporation that are now promised by the government are reflected and confirmed in legislation.

The Vice-Chair: It's the government's turn. Mr Johnson, do you wish to ask a question?

1450

Mr Johnson: Not so much a question as just to make a comment. We're pleased you took the opportunity to be here and give us your opinion and some facts. With that, I don't pretend I am thoroughly convinced by all of them. But I was wondering how you see the future and so on. You've given us some suggestions on Bill 58 and holding it back. But where do you see the utility, Ontario Hydro as we used to know it, going in the future?

Mr Cassidy: My preference would be to say that Hydro One works. It is the glue that binds the electricity system of the province together. It is a means for the public, through the Ontario government, to continue to exercise influence on electricity operations in this province. I think electricity is very important, for example, to stand in the way of a determined move by private sector players to ship every kilowatt hour of electricity they can find to the American market, at the expense of Canadian consumers in Ontario. That would be my preferred solution. If this government decides otherwise, they've said majority control will stay in public hands. I think it would be wrong to engage in such fancy-dancy solutions as essentially renting the corporation out over a long-term lease while technically ownership remains in public hands. I think the power of the government to continue to control Hydro One should be confirmed in legislation for the reasons I just gave.

The Vice-Chair: Thank you very much, Mr Cassidy, for coming today. We appreciate your taking time to make a presentation.

Mr Cassidy: I'd be so happy to stay, Mr Chairman, but thank you very much.

JAN HEYENEN

The Vice-Chair: Is Jan Heynen here?

Mr Jan Heynen: I am here.

The Vice-Chair: Welcome. You have 10 minutes to use as you please. You can either use the full time or allow time for questions.

Mr Heynen: Thank you very much for having these hearings. I first want to put in a few important starting points regarding the proposed option of partial privatization of Ontario's Hydro One.

It is an existing system that requires maintenance, expansion and operation. Whether Hydro One is publicly or privately owned, any debt payments are to be borne by Ontario taxpayers and/or electricity consumers. Therefore, these debts cannot influence the privatization decision.

Second, the system is owned by the people of Ontario. Any major changes in the operation of the company—that would also include ownership—must be approved by a majority of shareholders, as is common in multi-owner facilities of any kind.

With that in mind, I would like to make a few more points. One already has been made by the first speaker. Hydro is a necessity in our lives, and as such should be under full control of the Ontario community through the government. Providing an essential service does not have a good fit with the profit mandate of a private operator. Quality of service, safety and environmental stewardship should be the driving forces instead.

Hydro generation as well as transmission depend on facilities that have a potentially strong impact on the natural environment. For our world to survive we need to minimize this impact. This requirement needs to be addressed, for instance, when deciding on the design and

placement of transmission lines. This may mean routing the lines around sensitive nature areas. A reduction of the environmental impact is not a priority item for a for-profit operator.

The other parts of the operation, such as other environmental and labour standards, safety factors etc are important parts of the operation of Hydro One systems. The danger exists that when much of the ownership goes to foreigners, they can sue to reduce those requirements because they can be taken as reductions in profit potential and be eliminated under NAFTA rules. I remind you of the experience with the Ethyl Corp, which had to be paid because of claims of loss of profit.

Hydro One is a part of the hydro supply system of Ontario that is the least appropriate for privatization. The argument of competition giving possible cost advantages does not apply at all—not a chance that anyone would install a competing second set of high-tension wires in the province. The only effect of privatization is an increase in cost because of the shareholders' profits.

The only possible savings could come from a reduction in services and safety, and we don't want that, or from a reduction in the benefits for Hydro workers. They are the ones who really keep the system going, not the people with extra money who could invest. Therefore, the sale can only be excused for ideological reasons that say, "Private profit is best. Stop asking questions."

Many Ontario city councils—and that includes a unanimous decision in Ottawa city council—have made it known to the Ontario government that they reject the idea of privatizing Hydro One. Historically, these councils have been involved in the operation of a hydro system and their opinion should be taken seriously. Even Chairman Shortliffe of Hydro Ottawa did not recommend privatization of Hydro Ottawa. Partial privatization suffers from the same problem as total privatization. There's only a slight change of scale.

The privatization of Hydro One affects not only the transmission system in Ontario; without much publicity, the company has bought 85 local distribution facilities—that was in a press release in 2001—which means that a large part of local distribution also has been privatized without it being talked about much. That is very puzzling since Hydro One was created, maybe among other things, presumably to break up the vertical integration of Ontario Hydro. How does that match with the expansion of Hydro One into a new, vertically integrated company?

It was established in court that the Ontario government did not have the authority to sell Hydro One. I assume that laws are there for a reason. I'm puzzled at how the government, which was elected by only about 40% of Ontarians, can just overwrite such a law when it considers it inconvenient for its operations.

I would like to close with a few actual questions.

Profits: Hydro One can be sold only if it makes a profit. The net income was \$374 million in 2001, according to their reports. Ontario already owns Hydro One. Can you explain what long-term business sense it makes to sell this profit-making asset?

Decision-making authority: are you planning to have a referendum, an election, mail-in ballots or what, so that you be sure that a majority of the people in Ontario are in favour of selling off their own Hydro One?

Environmental issues: do you have plans to impose conditions living up to environmental standards on any sale?

NAFTA effects: would you undertake to make the results of any existing and future studies public on what impact NAFTA rules may have on Hydro One if it were privately owned?

Finally, I quote from something that is happening in Peru at the moment, where there are fairly extensive riots going on because of privatization of hydro. I hope this won't happen in Ontario. I quote from the Associated Press:

"Protesters say Toledo"—the president—"failed to consult local leaders about the sale"—we've heard that here—"reneged on a campaign promise not to sell off the electricity companies"—sounds familiar—"and ignored a court ruling against the auction"—another familiar sound.

"Protesters fear the sale of the electric companies will lead to job cuts and higher electricity tariffs with little reinvestment in the region.

"The government is selling off the electric companies and other state-owned assets to help cover budget needs."

Are we living in Peru or in Ontario here? Maybe I can get a few answers.

The Vice-Chair: Thank you. That allows about four minutes for questions. The official opposition, it's your turn. Would you like to ask a question?

Mr Patten: In one of your questions you asked about the business case. We've been asking in the House for a business case on this for many months, and we don't see it. We hear comments from Mr Eves and Mr Stockwell about the discipline of the private sector, which probably loses some of its glitter during these times. I frankly agree with your point of view. I can't see any way, unless Hydro One is so inefficient, which I have no reason to believe it is—it does make a profit, it seems to be well run and it plays an important infrastructure part, obviously a major, central part in our economy. The only reason I can understand is that the government is looking for cash, and one way they can get cash is to sell it off in part or in whole.

When you hear Mr Stockwell and the Premier talk about the discipline of the private sector, what's your response?

Mr Heynen: I've worked in the private sector as an employee, and I have seen the particular company I was with—I won't name it—go from a big company to an enormous company and have seen the same thing happen that is always talked about in government. My conclusion is that efficiency has nothing to do with private or public ownership; it has everything to do with size. It so happens that governments were bigger much earlier than private companies. At the moment, we have come into an atmosphere where bigger private companies are a similar

size to governments. As a result, as predicted, we get similar inefficiencies. Maybe Hydro One is inefficient because it's big, but turned over to the private sector I expect it would do the same thing.

The Vice-Chair: Thank you very much for coming before the committee today.

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POVERTY AWARENESS WEEK COMMITTEE

The Vice-Chair: Our next person is Terrie Meehan, from Poverty Awareness Week Committee. Welcome, Terrie. You have 10 minutes to use as you please. You can either speak the whole time or you can allow time for questions, whichever suits you.

Ms Terrie Meehan: I won't need the whole time. My apologies for being late. As you can see, I'm disabled, and accessible buses are hard to find.

First of all, as part of the Poverty Awareness Week Committee, we're against the deregulation part of this. It's hard enough to pay our necessary bills without wondering, "Is it going to skyrocket?" or "Are we going to actually have some more money to feed our kids?" I was just working it out and I pay about 42% of my income for shelter each month—I'm on a disability pension, so I get more than someone on Ontario Works—and currently, 3% of that is hydro. I've got growing kids, and every penny does count.

What we would like to see at Poverty Awareness Week is a revenue-neutral system. We agree with having a business case scenario, but having it set out so that it's revenue-neutral, so you don't make a profit off those of us who just don't have money.

We find it really scary that hydro is deregulated. What we see is, trying to make a profit off something that basically should be a public utility and should be run to make the money that runs it.

Thank you. I had more, but I'm just lost in the heat.

The Vice-Chair: No problem. Perhaps when they're asking questions you'll think of other things you want to say as well.

It's the third party's turn for a question.

Mr Hampton: I take it from your remarks that your principal concern is your fear that privatization of Hydro One, along with privatization of other elements of our hydro system, will result in higher prices that many people in Ontario simply will not be able to afford to pay.

Ms Meehan: The ODSP hasn't been raised in over nine years, and I think we're all aware of the cuts to people out there on Ontario Works.

Mr Hampton: Yes. The reality is, if you look at this in the larger context, that deregulation and privatization have resulted in a large number of profit-takers, commission-takers and fee-takers being added to the system. When the government first proposed privatizing all of Hydro One, one of the Bay Street brokers was heard to remark in the national press that he was so excited, it was all he could do to stop from peeing his pants. He was

asked why, and he said, "We stand to make at least \$200 million in fees and commissions." I think your concern is well warranted.

Ms Meehan: Actually, it's a fear.

Mr Hampton: Let me ask you what you would like to see happen with Hydro One. Keep it in public control?

Ms Meehan: Keep it in public control and create a revenue-neutral system. I don't know the logistics of that, but I'm sure the people running it—

Mr Hampton: Power at cost?

Ms Meehan: Yes.

Ms Churley: Do I have time to ask one as well?

The Vice-Chair: Yes.

Ms Churley: Thank you very much for coming down in the heat today. We really appreciate it.

Ms Meehan: This is air-conditioned here.

Ms Churley: Yes, it must be nicer in here for you.

Don't worry about being muddled in this group of people. You should hear some of the members around this table from time to time, if you want to talk about sounding muddled. You're excepted, of course.

I just wanted to say that I assume, from what I'm hearing in my riding, where a lot of people are living on fixed and low incomes who are already on the verge of being homeless as rents are going up because of de-control and all the other costs that are out there, the concern is that just one more hit, even with the hydro bill going up substantively, could lead to low-income people and disabled people literally ending up not being able to afford to pay the rent. I think that's what I heard you say, that you just can't take one more hit.

Ms Meehan: Yes. A friend in Kingston actually told me that at one point—and I can't verify this—if you couldn't pay your hydro in the social housing in Kingston, that was grounds for eviction.

Ms Churley: Right. As you know, New Democrats are doing everything we can to stop this privatization, and we'll keep on fighting.

The Vice-Chair: Would anybody from the government like to ask a question?

Mr Gilchrist: Thank you for coming to see us here today. We appreciate your comments. I just wanted you to know that of course the first part of the electricity market restructuring took place on May 1. It was announced about two and a half years ago, but it actually opened up on May 1, and that's the ability for anyone to sell power into the grid. For the first time in Ontario's history you could, as a matter of right, put up a wind turbine and sell power into the grid. In the old days, if Ontario Hydro didn't think it was a good idea, nobody got to sell power.

Here's what has happened to the price: on April 30, you and every other Ontarian were paying 4.3 cents per kilowatt hour, and every week since then it's been 3.1 cents or less, a 25% reduction. So the good news is, so far the opening up of the marketplace to competition means, particularly for people on fixed incomes, much lower costs.

The real question is, what other item in your life—name me one product where, if more stores opened up

and offered more product for sale, the price would go up. It always goes down. We're here to listen about a second part, and I don't want to confuse the issue. But I want you to know, since your concern seems to be about prices, that so far all the evidence—it's almost two full months now and we've seen a 25% reduction in the price of electricity. I just wanted you to know that.

Ms Meehan: Haven't there been some spikes, though? I heard of a 16%—

Mr Gilchrist: Do you know what? It's so typical of the media that that's the hour you would hear about. They haven't told you there have been many entire mornings where the price hit 1.02 cents a kilowatt hour, where it dropped 75%. I guess if you and I got hourly hydro bills we might be concerned. But we don't get hourly or daily or weekly bills; we get monthly or in some cases bimonthly bills. As long as the average any day or week or month stays cheaper, that's what your bill is going to show.

1510

Ms Meehan: I just want to comment on something you said about me selling power back. What would happen then is that the ODSP office at 10 Rideau would probably have a logistical nightmare with the really great software they're using. I moved in January, and they're still trying to figure out my move—

Mr Gilchrist: Well, good luck with that.

Ms Meehan: —with the Andersen Consulting software. I don't know if you've heard about it.

Mr Gilchrist: Yes. But that's really an issue that Ontario Power Generation or Hydro One is directly involved with. For the purpose of the discussion here today, I want you to know that so far, all the evidence is of cost decreases. That's going to mean good news for people on fixed incomes, and we're going to fight to make sure it stays that way.

Ms Meehan: Two months?

Mr Gilchrist: It's two months out of two so far, yes—100% of the weeks.

Ms Meehan: It's a honeymoon period.

Mr Gilchrist: Well, so far, so good.

The Acting Chair (Mr Bert Johnson): We'll go now to the Liberal caucus. You have about a minute and a half.

Mr Sean G. Conway (Renfrew-Nipissing-Pembroke): I just want to thank the witness for her testimony. Could you give us a sense of what your monthly electricity bill is these days here in Ottawa?

Ms Meehan: As I said, I just moved to where I am now at the end of January, but so far it's been approximately \$50 a month.

Mr Conway: One of the things someone said here a while ago, and I was struck, is that we're in a beautifully air-conditioned hotel room now, and that's good, but outside it's really bad today, and the two issues are not disconnected. In fact, I was thinking about putting a motion that we shut down the air conditioning inside because, in its own small way, that would help the bad situation outside.

Have you got any advice for us in terms of how government or public utilities responsible for the electricity business might make it easier for people such as yourself to help with what's called demand management? Do you get a sense from your utility here in Ottawa, do you get very good information as to how you might—are you encouraged to consume electricity in different ways today than maybe five or 10 years ago?

Ms Meehan: I'm encouraged by my bill to do that.

Mr Conway: That's a very good point.

Ms Meehan: As I said, I live on a disability pension. I have children. I admit I go mall walking, because there's air conditioning there and I don't have to pay for it.

Mr Conway: We all do that. You make a very, very good point. But you don't get much from your utility to encourage you or show you how you might consume electricity?

Ms Meehan: I may. I don't look.

Mr Conway: You're like most of us in that sense.

The Acting Chair: Thank you for being here to present to us today.

Mr Garry J. Guzzo (Ottawa West-Nepean): On a point of order, Chair: I just want to tell the committee that I apologize for being late—to you first of all, sir. I just left Councillor Cullen, and he's on his way. I thought I owed it to you to give you notice.

The Acting Chair: I don't think that is a point of order.

I would like to know if Crystal Beach/Lakeview Community Association or Dr Del Hushley is here?

OTTAWA RIVER POWER CORP

The Acting Chair:

Next would be Mr Murray Moore, from the Ottawa River Power Corp.

Mr Murray Moore: Thank you for the opportunity to make a verbal presentation today as well as the opportunity that has been afforded to utilities in the past few weeks by staff, yourself and the minister to present our opinions and the opinions of many of our customers. We realize this may be our last kick at the cat, as the expression goes. However, we do feel we have a made-in-Ontario solution to the problems the people and the government of Ontario face.

As published, the government is considering the following three options: getting a strategic partner, an income trust or selling 49%. Today we wish to address only a portion of Hydro One's assets, namely, Hydro One Networks. Hydro One Networks presently consists of the distribution, which is under 50,000 volts, and the transmission system, which is over 50,000 volts.

We must reiterate the reasons already stated by the EDA—which, for the public, is the Electricity Distributors Association of Ontario, of which Hydro One is a member—and others. Transmission must remain in public control in order to protect the consumers of Ontario. It has a similar function to supplying the needs

of the province of Ontario as does the Independent Market Operator, which is called the IMO.

Hydro One's distribution network is a system that has been expanded in the past few years to consume numerous municipal utilities in Ontario. These utilities, all operating debt-free, are now to be added to the debt of Hydro One.

We believe there is a solution that will address the many problems our government is primarily faced with at present. Some of these are debt, customer service, availability, accountability, reliability, public ownership, trust and the need for competition to maintain a high level of service and rates.

What do we see as the solution? The Macdonald report of a few years ago stated it very clearly: wall-to-wall utilities, possibly wall-to-wall county utilities. At that time, utilities completed many studies proving this idea as a viable option and Macdonald certainly adopted it. Presently there are amalgamated, municipally owned utilities throughout the province. These utilities are very capable of assuming this responsibility while still providing benefits to the customers and the province.

How can this option meet your criteria? First of all is debt. Through a lease-purchase or other negotiated means, the debt would be transferred to the companies, away from provincial responsibilities.

For customer service, regardless of the distance, our customers are continually amazed at how fast the response time is for trouble calls, service calls and underground locates. The response time ranges from minutes to hours, not days.

Availability: in our utility, we have local offices for local contact. Our customers are still able to pay at an office, with staff at their service. Our dispatchers know the localities, the circumstances and the conditions. Our staff is available to respond to inquiries.

On accountability, because we are locally owned, staff produces the required results and, if not, management and/or the board are subsequently replaced. Our shareholders are local councils and they want their return and the required level of service. The profits go to the municipalities.

Reliability: our customers depend on our reliability and we have a proven record with them. Our reliability is strengthened by the pride, commitment and ownership that our staff has with our company. With a locally controlled utility, designs and local construction may be scheduled on a local needs basis, not based on something which someone in Toronto comes up with.

Public ownership is maintained in this scheme. However, it is transferred to the lower tier, where there may be accountability, while being simultaneously provincially supervised by the Ontario Energy Board.

Trust: the local utility has developed a very high level of trust in our communities. This is emphasized by the questions our staff respond to on a daily basis.

Need for competition: by dividing the province into units, it will provide each of us with benchmarks indicating levels of efficiency for competition. With one

large utility, or with the large-utility approach, there is little to compare to, except that you have to go to the province and then circumstances are entirely different.

The Ottawa River Power Corp is a proud, municipally owned company with ancestor history dating back to 1884, before Ottawa had lights, and much prior to the formation of Ontario Hydro. Our present municipal shareholders are the town of Mississippi Mills, which is just adjacent to Hydro Ottawa, Killaloe, Beachburg and Pembroke. Municipalities do not want to relinquish their control or their annual return on their investment. We are a company that has been challenged and met the rigorous rules and codes set out by the Ontario Energy Board.

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We provide stability for a local workforce, profitability for our shareholders, maintain a high-quality plant and an enviable safety record, coupled with a very high level of community spirit.

Due to the location of our offices and level of computerization for billing, we are in a position to provide a very efficient and competitive utility to the county of Renfrew, as well as Lanark county. There would be negotiable boundaries with the adjacent wall-to-wall-utility concept to achieve the maximum efficiency for all concerned. This same scenario may be replicated easily throughout the province.

We realize there will be various challenges before us in the process, such as remote areas in the province, boundaries, metering, labour, culture etc. However, we have faced and conquered a number of these challenges in the past and we will certainly overcome.

In summary, we are not consultants, economists or experts from outside of our borders. We are the roots of Ontario that have actually worked and operated very successful municipally owned utilities. We believe the answer is before us and we believe we can work this out together. Our customers are Ontario taxpayers and we both want what is best for Ontario. Our record stands for itself. We merely request that we be given the opportunity to address these issues and provide the government with a made-in-Ontario, owned-by-the-residents-of-Ontario, and controlled-by-the-people-of-Ontario solution.

Once again, I truly appreciate the opportunity to provide you with what we feel is the best solution for the province.

Thank you very much. I'm willing to field any questions.

The Acting Chair: Thank you. There's about a minute left, and in rotation it would go to the NDP caucus.

Mr Hampton: Just two brief points. To summarize your statement, you want to see transmission remain a provincial, publicly owned body, but you want distribution to be returned to local, municipal PUCs. Would that be a fair summary?

Mr Moore: That's right.

Mr Hampton: The province, as you know, has set on a course where it has attempted to buy up, through Hydro One, a number of the public utilities. I find it very strange

that on one hand this government says Hydro One's in debt and on the other hand it went out and bought \$600 million worth of public utilities. It's been in the process of buying up those public utilities and now you see this move, totally at first and now partially, to privatize. Do you see any benefit coming from either a partial or a whole privatization?

Mr Moore: There's certainly no benefit whatsoever to the taxpayer unless it is municipally owned. The revenues from this have to come back to some place in the public and I believe that it has to come back through municipally owned utilities, at least as a second tier.

But you asked the question about transmission. Transmission has to be separated from Ontario Hydro. It's essential to get power out throughout the province, whether it's the north, east or west, and we cannot depend upon third party private enterprise making money to do that. We're strong proponents of municipally owned regional utilities.

Mr Hampton: Distributions.

The Acting Chair: I'm sorry to interrupt, but thank you very much, Mr Moore, for your presentation.

COMMUNICATIONS, ENERGY AND PAPERWORKERS UNION OF CANADA

The Vice-Chair: Is Vic Morden here? Welcome.

Mr Vic Morden: Thank you. Just before I get into the presentation that I put together, I want to thank the committee for being here, although I'm quite dismayed that you might not have looked at a map of Ontario recently. You're covering a very, very small share of this province. I'm a union organizer and my job is to organize members in the entire province of Ontario. I'm very aware of how big it is and how far this committee ought to be travelling if indeed it is going to reach everybody in Ontario and give them an opportunity to have what we have here today.

My name is Vic Morden. I'm a national representative with the Communications, Energy and Paperworkers Union of Canada. I asked for standing in front of this committee as a citizen of Ontario to speak on behalf of myself, and my boss, Cec Makowski, who was elected to represent 50,000 members in the province of Ontario, asked me to speak on behalf of all of the members. I am here today to request of you to send this legislation back to Mr Stockwell and instruct him to tear it up.

Bill 58 is the government's response to Justice Gans's ruling and it's inconsistent with the most recent declaration by the Premier to keep Hydro public. The government's appeal of Justice Gans's ruling is also inconsistent with the Premier's latest position on privatization of Hydro One. Ernie Eves has created confusion and has demonstrated dishonesty on this issue. Bill 58 proves that Mr Eves wants to please his pals on Bay Street and thinks he can trick us on Main Street, and that is not on. When is the Premier going to listen to the people of Ontario? Ontarians have been clear on the issue. Polls show that a vast majority of Ontarians, more than 80%, want to keep

Hydro public, and that means 100% public. Bill 58 shows the government is not listening or, worse, they don't care.

There will be a political price to pay. The people of Ontario will not forget, and come the next election we will publish a report card on how each and every MPP voted on Bill 58.

Most recently, CEP's lawyer and a government lawyer were interviewed by Andy Barrie on the CBC Toronto Morning Show. The Ontario government lawyer said the reason the Ontario public was against the government on the sale of Hydro One was due to the fact that the government failed to market the issue properly. Just how arrogant and disrespectful can you get? It will never matter how you market and package a bad deal; it will still be a bad deal. The people of Ontario know selling Hydro One in whole or in part is a bad deal. Private or part private electricity will cost more, and that has been proven worldwide. Recent attempts to privatize electricity, such as in California, have made our case crystal clear, with higher costs and shortages. To add a level of private ownership means higher costs due to private profits.

What about NAFTA? We know that under private and possible foreign ownership there will be increased pressure to sell even more electricity to the USA. NAFTA will force us to bring our prices up to meet the higher US prices or pay penalties. We will also be forced to continue to meet US needs even if it means brownouts or blackouts for the people of Ontario. Our only redress against NAFTA will be in the courts, and just like the softwood lumber issues, that will take years and years to resolve while we pay more and freeze in the dark.

This deal will cost us jobs. Companies give huge consideration to the cost of electricity when thinking about staying or locating in Ontario.

It's not broke; don't fix it. Right now Hydro One makes enough money to operate and service the debt and still show a return for the people of Ontario. So our members, and the majority of Ontarians, say, "Leave it alone." It's time to listen to the needs of the majority, not the greed of a few.

Thank you for hearing me.

1530

The Vice-Chair: Thank you very much. That allows five minutes for questions. It's the government's turn.

Mr Gilchrist: Thank you for coming before us here today.

Let me get this straight, and we've heard this time and time again from you and your brothers and sisters and others: Bay Street will be happy if the cost of electricity goes up for every office and every factory in Ontario. That's your position before us here today?

Mr Morden: No, sir. What I'm here to tell you is that Bay Street stands to make a pot of money in the deal that was put to them by Premier Harris, and that was on the very sale itself.

Mr Gilchrist: Which isn't going to happen. It's off the table. You're coming here today presumably knowing

that we have said we will not sell control of Hydro One. Period. End stop.

Mr Morden: That's not good enough for me or the people of Ontario.

Mr Gilchrist: But you're still skirting around the issue that Bay Street—and by Bay Street, I think most people would understand you mean corporate Canada—somehow collectively would be happy that their own office buildings on Bay Street and all the factories they represent will have higher costs. That's what you're saying here today.

Mr Morden: I think when they offset that with the money they could make from the deal that you're going to hand them, yes, they will be happy.

Mr Gilchrist: Well, I suggest you go back and look at a couple of other things. First off, softwood lumber is exactly the opposite. You see, Americans are trying to keep our product out. We don't have to force anybody to go to any court. The fact of the matter is, the inter-connections with the States aren't big enough to take more than about one sixth of all the power that's generated in the province of Ontario. The wires aren't big enough. You can't get more than one gallon into a one-gallon bottle. So NAFTA is such a red herring, it really diminishes your case here.

But let me ask you very specifically—

Mr Morden: Can I respond to that?

Mr Gilchrist: Sure.

Mr Morden: You tell me NAFTA was such a red herring. I remember when Mulroney told me that, and I'm seeing what it cost us, and I'll tell you, it is like softwood lumber, because the United States will accept softwood lumber at their price. Hydro will be the same way. They'll want it at their price.

Mr Gilchrist: The difference is, they're doing it to advantage American manufacturers of lumber. Right?

Mr Guzzo: Jean Chrétien is going to tear up NAFTA anyway. You know that.

Mr Morden: Thank you, sir.

Mr Gilchrist: So let's look at the reality today.

Mr Morden: We're just waiting for him to do it.

Mr Gilchrist: Drive across the St Lawrence and the price paid by all of the customers, all of the factories, all of the homes there, is cheaper than it is in Toronto. It's cheaper than it is in Ottawa right now. It's \$29 a megawatt; you're \$31 dollars a megawatt. There are lots of heads shaking in the audience. Let me give you a couple of other stats. In Alberta, the average wholesale cost has fallen 67% in the last year alone. In the United Kingdom, the average residential bill is now 32% lower in real terms, adjusted for inflation, than when their market opened 10 years ago. In Australia, prices have come down. In New Jersey and Pennsylvania, residential consumers pay 10% less three years after their market opened, and in Texas, retail competition offered consumer savings of over 10% this year alone.

Mr Morden: Those are interesting numbers. My research shows, and researchers that have been doing

research for our union show, worldwide, 18% higher for privatized—

Mr Gilchrist: I'd love to see those stats.

Mr Morden: Absolutely. We'd love to share them with you. I have no problem doing that.

Mr Gilchrist: Maybe you'll leave them with the clerk before you go today.

Mr Morden: I don't have them, but I'll send them to your office and be pleased to do that.

Mr Gilchrist: I look forward to getting them.

Mr Conway: Thank you, Mr Morden, for a robust presentation and a lively exchange with the committee thus far.

One of the questions I have is around supply. There are some important issues around Hydro One, obviously, and a very important public interest. But the thing that's really gotten us into the problem we have today with the Hydro question is supply. We have big trouble in our nuclear power division, and we're not here to debate that in any detail today. But we've heard from several presenters, I think, suggestions that are not unreasonable. Most people, I think, if you ask them, would like to see the coal plants shut down and the nukes probably shut down. The only problem with that is, that's about 10,000 or 12,000 megawatts of our existing capacity. When we hit the summer peak, which we probably will in a few weeks' time, we'll be importing American and Quebec and Manitoba power to meet that peak.

My question for you is, what advice do you have for the government and the Legislature of Ontario as to how, going forward, we are going to meet future electricity demand? Just let me leave it at that.

Mr Morden: I think you hit on a couple of key issues. First of all, there are some hydro facilities that are presently mothballed and could be fired up. If we're forced to get into a deal down the road where we have to meet even a foreign country's supply demands, they could be fired up for profit. That's Nanticoke coal, a huge environmental issue, and the Hearn station in Toronto. I think that could be a real problem. I think greed and profit could force them to take bad decisions on that issue. I think it's going to take careful planning, and I think the money is within the public system to do it properly.

Mr Conway: My worry is that there is a general view in the Ontario public that we have substantial excess capacity. We don't. We have a margin that's getting thinner. I've been around this debate awhile and I have more sins than most people, but problems that have brought us to this difficult point are almost entirely in generation. I don't see easy, customer-friendly solutions over the next five to 20 years. I hope I'm wrong. I think most of my constituents would be pretty surprised to find out that when we get to the summer peak in a few weeks' time, we'll only keep the lights and air conditioners of southern Ontario on by importing American and Quebec power. By the way, the Quebec power we import we will pay Boston prices for.

Mr Morden: I think that if we keep Hydro public, we have a better opportunity to introduce efficiencies into

the system. I think we have only started scratching the surface about reducing use. The technology that has come along in the last 10 or 15 years is pretty phenomenal, but it's not out in the market as much as it can be. What I've seen in changes in technology in my lifetime is pretty phenomenal, and I've spent my life working as a technician. It's phenomenal. We need that marketed and we need to spend some more money on research and making the system more efficient. I think only the public would have that interest.

The Vice-Chair: Thank you very much for coming in today to give your presentation.

JOHN SIFTON

The Vice-Chair: Mr John Sifton? Welcome, Mr Sifton. You have 10 minutes to use as you please. You can speak the whole time or allow time for questions, as you please.

Mr John Sifton: I'll give a short statement and that'll be about it. If I appear a little hesitant today, it's because I'm not a speech maker and I've never appeared in front of a legislative committee before. I can assure you that it's certainly not something I intend to make a habit of.

I'd add further that I'm representing nobody but myself, though the polls seem to indicate that a lot of people, anywhere from 70% to 85% of Ontarians, think as I do about the direction the government is taking with Hydro One. Though we are far from being experts, all of us are profoundly concerned about the government's plans for the generation, distribution and retailing of electricity in this province. I do understand that with Hydro One, you're talking about the distribution system.

Despite the comedy of almost daily course corrections by Mr Eves and Mr Stockwell, there's no getting around the fact that Bill 58, in my reading, authorizes the government to sell off Hydro One. Frankly, why seek such an authority if you don't intend to use it? It's not that I'm against markets or the private sector as a matter of principle. I'm a freelance writer. I work in the private sector. I compete against other writers for work. Sometimes I win; sometimes I lose. But what happens to me doesn't matter very much in the larger scale of things. What happens to electricity distribution in Ontario matters in an elemental way to every citizen of this province. I believe electricity distribution is too important to Ontarians to be turned over to the private sector in whole or in part.

For one thing, it's a natural monopoly. Unless the government or some entrepreneur intends to double-wire the province, or Nikola Tesla's hare-brained scheme for transmitting electricity through the ground becomes a reality, it will always be a natural monopoly. Everyone knows the market forces all favour the monopolist over the consumer, and I would rather have this monopoly firmly in the public sector, where it's at least amenable to some democratic control.

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If I read the legislation correctly, the strange private-public hybrids in our new energy universe will be beyond

democratic control because, quite simply, no member of the public will really know what's going on. According to the summary of the bill on the legislative Web site, many records of the market surveillance panel and the IMO will "be protected from disclosure under the Freedom of Information and Protection of Privacy Act." I think that's very important because I think that it's through that legislation you really get intense scrutiny.

The government earnestly claims that some sort of restructuring is needed in order to pay off Ontario Hydro's massive debt. But that debt was incurred because of Ontario Hydro's nuclear power generation facilities, not its transmission system. At least that's what I understand.

Why didn't the government do a better deal with British Energy instead of offloading the debt problem on to the transmission system? That's what it appears to me that you're doing. I don't know.

The government says that some \$550 million is needed right away and billions more later to upgrade the transmission system. In May, the *Globe* reported that potential investors were being told that annual revenues from the grid were \$500 million to \$600 million a year and they could expect a return of 10% on their investment. You can do a lot of upgrading with that kind of money.

But how much upgrading will we need of this grid? The government says we'll need lots of upgrading to prepare for the future. But if you go the Web site of the Independent Electricity Market Operator, you'll find its 10-year outlook completed in April. Its conclusion is, "The capability of the transmission system is adequate to meet the supply demands within each of the 10 transmission zones for the period 2003-2012." In the view of the IEMO, the only real stress on the system will occur in spring 2003. We're talking distribution; we're not talking generation.

If I recall correctly, it was exaggerated projections of electricity demand like the government's that in the 1960s, 1970s and 1980s resulted in the overbuilding of nuclear generation capacity and the massive Ontario Hydro debt we face today. Haven't we learned anything?

I also don't see how bringing in the private sector in some unspecified way will make it more painless to service the debt or upgrade the transmission system. Won't the cost of these investments and debt servicing still be passed on to the consumer in the form of higher electricity rates that will also be inflated by the need to provide an adequate return on investment to private operators and/or investors?

Or is the government assuming that we'll strike it rich by selling electricity in the American market? Is that why I hear of plans for increased transmission capacity through Windsor, Simcoe, Sault Ste Marie and Thunder Bay? I know you don't like to talk about NAFTA but I still wonder what will happen when NAFTA kicks in. Will Ontarians end up paying the same high rates as most American electricity users? I know there is a lot of disagreement about those rates, but my understanding is that, by and large, the rates are higher in the US. What

will happen if American utilities decide to treat cheaper Ontario electricity the way American lumber producers treated softwood lumber? What will happen to our rates then?

I could go on asking such questions, but I think it would be futile because ultimately I only have suspicions and vague indications, such as Bill 58, as to what the government is really intending. In a genuine consultation you don't just ask questions, as the government does in its consultation paper; you present options as a foundation for meaningful debate. In the absence of options, this consultation is a sham driven by the government's anxieties about the next election, or at least that's the way it seems to me.

Regrettably, Bill 58 and the Premier's statements about Hydro One don't seem much like Bill Davis's reversal of the Spadina Expressway. They feel more like a hot wind blowing up a dust cloud to hide the construction site.

The Vice-Chair: That allows a couple of minutes. The third party, Mr Hampton.

Mr Hampton: I want to focus on something you alluded to. Did you have a chance to look at the privatization prospectus, the one that was floated? It came out Easter weekend at midnight, March 28.

Mr Sifton: I didn't, no.

Mr Hampton: I think the government was hoping no one was looking then. But it's interesting reading. When you go to the investment section, one of the things the government says is, "We have to sell off part of Hydro because we need to make this investment." When you go to the investment section, pages 47 and 48, nowhere does it talk about investment in improving or maintaining the grid in Ontario. It talks about building the transmission line under Lake Erie, it talks about enhancing the transmission line into Michigan, enhancing the transmission line into New York state, buying up transmission lines in New England and buying up transmission lines in the US Midwest.

Mr Sifton: My understanding is that in Britain, for example, one of the difficulties they had after privatization was that it was very difficult to get private operators to invest in the grid. Notwithstanding what was just said, my understanding is that rates to consumers went up. I think that rates to large users probably went down.

Mr Hampton: Part of the problem in Britain, and the government I think wants to confuse us, was that after hydro was privatized they discovered cheap North Sea natural gas, which then allowed them to produce electricity at a lower price, but in fact that reduction in cost wasn't passed on to consumers. In Britain, they have re-regulated since then to force down the price of electricity. The government still insists that's a result of privatization. No; it's been a result of having to step in and re-regulate in order to get consumers a deal.

I wanted to ask this point. The government makes much of, "This is necessary to deal with the debt." But again, if you read the actual privatization document that was shopped around to Mr Eves's investment banker

friends on Bay Street, it contains almost no discussion about debt retirement. It talks about how lucrative it will be to be able to take electricity generated in Ontario and transmit it to the American market. So why do you think the government goes through these stories about "Well, first of all you need it for the debt, and secondly, you need it to maintain the electricity system"? When you actually read the document—and by the way, the people who drafted the document would go to jail for 10 years for putting a false or misleading statement in the document.

Mr Guzzo: No, no, maximum sentence.

Mr Hampton: They could go to jail for 10 years. You were a lenient judge in your time.

Mr Guzzo: We don't put anybody in jail for 10 years any more. Come on.

Mr Hampton: That's what I say: you were a lenient judge.

Why did you think the government goes on talking about debt and that they need this for maintenance? When you actually read the document, it doesn't say any of these things.

Mr Sifton: I can only speculate, but it seems to me if you have what I think is an ideological agenda, the only way you can drive it forward is to be able to point to something like overwhelming debt in order to say, "It's broke. We've got to tear it down and do something entirely different."

The Vice-Chair: Thank you very much, Mr Sifton. We appreciate your coming in today.

COMMUNICATIONS, ENERGY AND PAPERWORKERS UNION OF CANADA

The Vice-Chair: Is Alfred Theobald here? Welcome.

Mr Alfred Theobald: Thank you, Mr Chairman. This is not something I'm accustomed to. The last time I spoke at this type of committee was at least 15 years ago. But this was found to be so critical that my membership sent me here to do everything I can to make adequate representation on this important issue.

Thank you for giving me the opportunity to speak on this important topic of the government's intent to privatize in part, for now, Hydro One. My name is Alfred Theobald. I am a national representative of the Communications, Energy and Paperworkers Union of Canada. While our union represents some 50,000 members residing in Ontario, I represent under my assignment nearly 1,500, mostly working in the pulp and paper industry and other manufacturing facilities. My service area is Ottawa and Cornwall.

Employers are reluctant to state their position to me but some of them are more open. CFS, for example, an important chemical company, kept a prudent position and said that under the present conjecture it's not a good idea. Ottawa Fibre, a very high consumer of electricity, also took exception to the project. Of course, I know very well and it's on the public record that chief executive officer John Mayberry from Dofasco—you'll say, "Well,

that's only one employer," but it's a big, important employer; if one employer starts to scream this way, there must be fire under the smoke.

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The privatization of Hydro One has been the object of discussion with our members and they have sent me here to represent their concerns. Their concerns are twofold. The members I service fear dramatic rate increases in the future and fear that their employers' financial status might be destabilized. The cost of electricity is one of their major expenditures.

It is now no longer a secret that with the last budget of the province, the government is looking for cash in the face of its tax cut policy. We know that the revenue has fallen in the province because of the slumping American market and we know the commitment that Ontario has made to funding health care and this grab for cash. The sale of 41% at least, as last announced by the government, would generate revenues of about \$2 billion, at the expense, however, of an important asset of the province of Ontario.

The members I represent expect that the elected government representatives will take decisions for the well-being of all Ontarians. The members I service generally feel that, since they are at work providing wealth for the province and don't have the time and resources to manage public affairs, they elect people—like yourself, Mr Stockwell—to do this job for them. They remain dismayed, however, that they have now to defend themselves against their own government, which seems more inclined to an ideology than the managing of the public good.

While Premier Ernie Eves multiplies declarations that the privatization of Hydro One is on hold, your ministry tables Bill 58, an enabling piece of legislation that will allow the government to sell all of Hydro One's assets. Your ministry appealed Justice Gans's decision to attempt again to secure government authority to sell off Hydro One. In fact, there are no positive experiences to turn to that would demonstrate that the public will be best served by this bill. All the experiences—like the state of California and Enron, where public funds had to pick up the mess to \$13 billion, and the state of Pennsylvania, who went through a similar exercise causing chaos in prices and eventually the bankruptcy of its own electric generator company—led to higher, and much higher, electricity bills. Some Ontarians and possibly some American financiers will be served, of course, but they are presently at a golf course somewhere awaiting the enactment of Bill 58. Why would the government cut down the powerful leverage to create jobs in this province? And, you know, it's done in the neighbouring province. They view electricity as a powerful leverage to create a thousand jobs in the aluminum industry. I am told it has been done here also in the past. The answer can only be for ideological considerations.

Some of the effects expected from private ownership could lead to brownouts and blackouts, with the high demand from the US for cheaper electricity and the

eagerness of these companies to drive prices up—we know the NAFTA rules; we talked about them just earlier—and lower response times in natural disasters such as ice storms because of job cuts driven by the desire to reduce costs and maximize profits. That's the whole nature of the private sector.

What about the environment? Well, here Mr Stockwell is in a difficult spot. Simultaneously, he is the Minister of Energy and promotes the energy, and at the same time he stands to defend environmental issues. Will Bill 58 help? The answer is no, it won't help. Higher rates will drive residents to move away from electricity to heat their homes in favour of carbon-releasing fuels; the private sector will want to capitalize on the golden opportunity to sell electricity to the US, increasing the burning of coal-fired generators, releasing more carbon, nitrogen oxide and sulphur dioxide in the atmosphere, yet increasing the pollution levels for Ontarians for US consumption. Right now, as you know, it's 30% to 50% usage on these coal-fired generators, and they can be driven up to 100%. There's a lot of room here, and they know it. The private sector will certainly capitalize on it. I've never seen a private sector company being limited to 30% and 40% consumption when they have the power to increase it to 100%. They'll look for the market. There will be an increase in smog alerts, as we had today and yesterday, as you know—it is already here with us—and more victims will be expected, especially in Toronto areas.

The sell-off of Hydro One should be viewed as a bad idea, where private sector discipline is inappropriate in an environment of little or no competition. The driving force will be to set the price at the maximum the market can bear. This always means higher rates for most and the literal exclusion of the poorest Ontarians.

Here's a note: you know that the majority of the poorest Ontarians are rental dwellers. When you rent, if there's a hike in the electricity bill, either you have to pay it yourself or it's part of your rental fees, which will be driven up. That doesn't serve the public good, we say. The government can dress it up as it wants, but the finality will be the same. Just remember the Toronto bypass highway and the famous promise of keeping rates low. Last year, in one single increment, rates doubled. Mr Stockwell, you know that and I know that. I am asking you to rethink this bad idea and keep Hydro One in the service of the public and as a powerful leverage to create and maintain jobs in Ontario.

Privatization will move Hydro One from serving all Ontarians to serving few Ontarians. Mr Stockwell, the sale of Hydro One is an irreversible process, we can't turn it back, and if we do, the cost will be prohibitive with NAFTA rules. Should you not at least have a full public debate on such an important decision and, better yet, an election?

Thank you for listening to me. I am open for questions. Bear in mind I'm no expert in hydroelectricity, the production and distribution, but that's the voice of my membership and I hope we'll carry the mission that Adam Beck started in 1908.

The Vice-Chair: Thank you very much for coming. It's time for the government for questions.

Mr Gilchrist: I appreciate your coming before us here today, Mr Theobald. Lost in this debate are some very key issues. You would be quite correct in all of your submissions if we were talking about the old Ontario Hydro. It was, in effect, a self-regulator. If it decided something was right, it went ahead. If it decided it didn't want to, for example, develop green power, it didn't get developed. If it wanted higher rates, the rates went up.

That's not the status quo today. First off, it's the Ontario Energy Board that sets the transmission rates. It doesn't matter who owns Hydro One. They have no say. They can ask for more. They have no power to get it. Only the OEB, which continues to be a government-nominated and -overseen agency, will set those prices. The independent market operator is mandated to guarantee—let me underline the word “guarantee”—there is an adequate supply of power in every part of the province. So the Chicken Little scenarios of all of our power going down to the States can't happen—again, not because some private entity, Hydro One or the government wants it to happen or not happen but because these arm's-length regulators guarantee that it cannot happen.

I do want to touch on something you raise in your report about smog. One of the things that—in fairness, it's a very complex issue. I have to have great sympathy that there are all sorts of things that have taken place in the last few years that may not be well known. You may or may not be aware that one of the major coal-burning plants is already scheduled to close completely by April 2005: Lakeview in Toronto, surely the one in the greatest population density. It's closing completely. You can speculate all you want about what could or might be, blue-sky scenarios, but that's closed. Of the other ones, we've capped the emissions. So if we've said, “You've got to reduce your NO_x by 53% and your SO₂ by 25%,” I sincerely ask you, how could anyone—Hydro One or any other operator—ramp up that power from 30% to 100% while cutting their pollution by 53% and 25% respectively on those two pollutants?

Mr Theobald: Mr Gilchrist, I'm not an expert in hydroelectricity. As I said earlier, the question I'm looking at, what I'm trying to seek from your position, is, where would it make a difference whether it's publicly owned or privately owned? I can't answer that, because I think if it's publicly owned we can still achieve those same objectives you're talking about. If you're so good at it—and I think you are; you're a very well spoken person—why don't you have an open public debate on the issue? Clear it up with the public.

Mr Gilchrist: I thought that's what we were doing here now.

Mr Theobald: That's not what you're doing. Obviously, 80% of Ontarians are not with you. How come? Your message didn't get across, did it? If it's so good, why don't you challenge it to the experts? Why don't you make it an election process? It's one of the biggest privatizations in Canada. Why don't you make it a public

debate? I want to hear the experts challenging you on what you're saying on these things. I want to hear that.

1600

Mr Gilchrist: It's a shame that more than 17 people in all of Ottawa, including all the experts down here, chose not to avail themselves of this opportunity. Wouldn't you agree?

Mr Theobald: Right, and if we wouldn't have challenged you on this with Justice Gans, it already would have been privatized on May 1, with very little knowledge to the public.

Mr Gilchrist: No. That is not true.

Mr Theobald: The process was beginning.

Mr Gilchrist: The process was beginning; it was not ending.

Mr Theobald: So are you going to take on public debate? That's what I want to hear. I think you can do it. Go ahead. Why don't you do it?

Mr Gilchrist: I think that's precisely what we're doing. They're the ones who want to have an election. Let them resign and run their by-election and we'll see who's right and who's wrong.

The Vice-Chair: Thank you very much, Mr Theobald, for coming in today to make your presentation. We appreciate it.

Is First Source Energy Corp here? No.

JEREMY WRIGHT

The Vice-Chair: Jeremy Wright? Welcome. You have 10 minutes to use as you wish. You may speak the whole time or you may leave time for questions, as it suits you.

Mr Jeremy Wright: Thank you very much, Mr Chairman. Ten minutes isn't very long to deal with an issue of this magnitude, so I would like to spend the first few minutes in what I call thinking outside the box and proposing some alternatives and options for the government to consider. But I would like to start by taking a look at some of the core issues, such as I see them.

I'd like to turn the clock back, if I may, to the early 1970s, when I was working in the Privy Council office here in Ottawa and I was asked to contribute a few thoughts to a speech that Alistair Gillespie was making to the financial community in New York. The remarks I put forward, which he adopted, were to suggest that Canada is a proud and independent nation, that we are a lot more than the icing on the American cake, and for the US to pick our resource cherries from a neighbour's garden is not a neighbourly thing to do. That was in the early 1970s. What I missed in that analysis was the growing role of the multinational corporations, whose allegiance is only to their absentee shareholders and who have, as everybody in the room knows, limited social and environmental responsibility and they have very little liability, as for example the Chapter 11 Johns Manville and other bankruptcy protections would show.

I would like to suggest to the committee that the issue of privatization is probably the most serious issue faced

by the province since Confederation. I believe there is a fundamental matter of principle here between a private, for-profit enterprise, which is run in the interests of the shareholders and financial returns, and the public utility run in the public interest of the people of the province. The issue here comes with the distribution of the costs and benefits and responsibilities, as between shareholders and the public. By way of analogy, if you look at the health care system, which in Canada is running somewhere about 9% of GNP and in the US about 13% of US gross national product, the multinationals are slobbering their chops at 4% of the Canadian gross national product for health care costs. That's the amount of magnitude that we are talking about there.

To step back for a minute, if you look ahead in the next 20 years or so, there's a massive energy shortage developing, particularly in the hydrocarbon area, and this is what, as many of you may know, the invasion of Afghanistan is really all about. So it's at this juncture, from what I can see, that the province has decided, or the Conservative government has decided, to give away the crown jewel of the province.

This proposed legislation is enabling legislation but there's nothing clear about what is being proposed. The numbers I have seen are perhaps the slipperiest numbers. I have no idea, for example, exactly how the valuations were done, whether the book value is the same as the replacement value. Clearly a lot of Hydro sites in Ontario are irreplaceable, they can't be duplicated, and the amount of debt that's being passed off to the taxpayer—I still don't know whether it's \$36 billion or \$21 billion or some number in between, according to how much you sold off and how much is privatized. I have been unable, although I've been following this as closely as I can, to get a decent set of financial statements from the government. I do know that when you look forward in the cash flow, there's more than enough cash flow as it is to render doubtful all the initial allegations that it had to be sold off to pay off the debt.

The Premier is touting the virtues of private sector ownership, and I think the weight of evidence is against him. I would point to the Enron scandal and the California situation. I'd point to the India situation. I'd point to the loss of sovereignty when Warburg wiped Enbridge gas out from the Enron debacle and sold it to a British company for \$1 billion, and I note the province had absolutely nothing to say about that. I would point to the privatization in the UK of the post office and UK rail, where service has degenerated substantially. I would also point on the other side to Bosnia, where the public ownership of utilities kept that country going. I would point perhaps to the basic flaw in the argument of privatization, which is that when push comes to shove, private enterprise can walk away at any time and claim that it is not profitable. This is something where, if the hydro energy is owned by the province at 100%, it is very difficult for the province and the municipalities to walk away, whereas multinationals can just up-stakes-and-out from one day to the next.

I venture to disagree with the government on the importance of Chapter 11, the two-pricing system and perhaps the possible abolition of a two-pricing system when FTAA gets itself adopted. I don't want to spend too much time on that, but I would like to suggest that I think we're all concerned, as responsible citizens, as people who are concerned about the longer-term interest of the province: economic, social and environmental. It seems to me that what is being done here with privatization is to take the benefits that previously accrued to the province at large—and here I'm talking about business in every community in the province—and rewrap them in a system that delivers those benefits in terms of financial returns to the absentee shareholders.

I hear rumours. I haven't heard the TV thing today, but I gather there are rumours that the information section of Ontario Hydro is being closed down on the grounds that it is now commercially confidential. Certainly, in terms of accountability to the public at large, I would claim that public ownership is at least open to some scrutiny.

I think the matter is so serious, as you look 20 or 30 years in the future, that it is really time for sober second thought and for the government to be honest and upfront with what it is they are proposing, at what cost and to whom.

So my options, if I can move to the second part: I think it's up to the government to admit that the privatization of public utilities, which have been very well run, including Ottawa Hydro—superbly managed—is a huge economic and social mistake. I suggest that the province cancel privatization and adopt the strategy that Quebec, Manitoba, Saskatchewan and BC have done, which is to maintain the lower domestic rates, and whatever export surplus there is, use that export surplus at US prices to help pay down the debt.

I've been doing some quick calculations, and my background is a little bit in economics, and I say if \$37 billion of debt is being handed over to the taxpayer, at 5%—let's use a \$40-billion number for ease of mental arithmetic and assume a 5% rate of interest. That's \$2 billion a year in interest. So it would seem to me that if the deficit is the real issue, the province might consider converting the outstanding debt to either equity or similar interest-free financial instruments, and use the annual saving of some \$2 billion a year in interest to pay down the debt and refurbish the system. That is to say that the proceeds from Hydro go to support the energy system, the heart system of the province on which we all depend, irrespective of political stripe.

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In summary, I don't think, whatever may be said in the short-term question of pricing in the two months in May, which are some of the lower peak periods, that this is by any means an indication of what's going to come. My view is that governments are basically elected to represent and serve the public interest at large. They're not elected to represent the interests of a tiny few on Bay Street. I don't think you can be half pregnant and I don't

think you can be half infected with the AIDS virus. I think you're either private or you're public or you're HIV-positive or you're HIV-negative. It seems to me, from looking around the planet, that privatization in fact serves only the interests of the for-profit multinationals.

I would strongly recommend that the government develop a workable alternative with decent, clear numbers to put before the public before passing any enabling legislation, because even the enabling legislation itself is not clear as to what the government's intentions are at the moment. So I would ask the committee, and the government in particular, to give this matter sober second thought in the common interests of all Ontarians, and of Canada, of which Ontario has traditionally been the heartland, for our common future.

Just in closing, I would hope that there is some degree, that there are some principles at stake here that are honoured and that the government retrieves what I have come to call the Eves-trough and returns it to the public domain in such a way that all citizens of Ontario, rich and poor, left or right, benefit and have a decent energy system to take us through the next decade and through the next century. Thank you very much.

The Vice-Chair: Thank you very much for coming in today, Mr Wright. That uses all your time. We appreciate your coming in.

FIRST SOURCE ENERGY CORP

The Vice-Chair: Our next company is First Source Energy Corp. Please state your name.

Mr Ron Clark: Thank you very much, Mr Chairman. My name is Ron Clark. I'm here today on behalf of First Source Energy, a jointly owned venture of Enersource Corp and Veridian Corp. I'm a lawyer with Power Budd LLP. Ladies and gentlemen, First Source was formed to offer Ontario residents a competitive local solution for their energy retailing needs. I would like to begin by thanking you for giving me the opportunity to present today.

My presentation deals with section 88.9 of Bill 58. While this has not thus far been the focus of the debate about this legislation, it's crucial to the viability of the competitive electricity marketplace. It affects a fundamental aspect of our industry: the relationship of trust and obligations between an electricity retailer and its customers.

Before I proceed further, let me state for the record that First Source does not use door-to-door salespeople or telephone soliciting. In fact, First Source fully supports the principles behind the government's consumer protection initiative. We believe that high-pressure sales tactics hurt both the consumer and the industry. This is why we have focused instead on building trust and open dialogue with our customers.

As an aside, I would like to underline that these are not hollow words. An example of our commitment is the town hall meetings we have held across the province for the sole purpose of providing information and education

to the public. While some might call this a soft sell, they would likely agree that this is not the kind of marketing the government should be discouraging. In fact, as a result of the feedback that First Source received at our town halls, we today announced the first-ever pricing alternative that gives the Ontario Power Generation rebate back to the customer. So far, it has had a very positive reception.

As you can see, First Source is not part of the problem. In fact, we see ourselves as offering a good solution. We endorse stronger controls on gas marketers and electricity retailers, where such controls address unfair marketing practices and false advertising. In addition, First Source supports the requirement for clear, written contracts. Thirdly, First Source supports enhanced enforcement mechanisms.

However, there is a flaw in this legislation. First Source is concerned that in an effort to stop the bad actors, the lawmakers may be casting the net too wide and unintentionally punishing those who have behaved responsibly. The provisions of the proposed bill that were intended to discourage ill-trained door-to-door sales or high-pressure telemarketing will, if implemented as written, also discourage low-pressure mail-in sales approaches.

Ladies and gentlemen, picture me as the customer. I receive in the mail a blank contract from First Source with an invitation to sign up to receive their services. I then make some calls—perhaps to the government's or the OEB's 1-800 numbers—look on a few Web sites and basically do my research on my own schedule. When I have the information I need to feel comfortable and I decide to sign up, I then fill out the contract and mail it back to First Source. In legal terms, this constitutes an offer to First Source by the customer.

After a week or so, I receive an acceptance package. But it's not over yet. Under Bill 58, the acceptance would be conditional on my mailing back yet another document to reaffirm the previous offer that I have already mailed to First Source, and I have to mail the reaffirmation document back to First Source within the required period. Only if I mail the second document, after day 14 but before day 31, will the contract be valid. Only at the end of this whole process would First Source know it had a valid contract. But there's more. The 31-day period would not begin to run until First Source accepted the customer's offer.

First Source probably will not know whether it has a valid contract for 45 days or longer after the customer originally sent the contract, and of course the customer won't know either. Also, it will be unclear whether, or when, First Source should notify the relevant distributor that a customer has been enrolled.

It's our belief that this proposed process will cause more confusion for the customer. We strongly believe that fixed-rate contracts offer customers protection from variable prices. That's the basis of the market, ladies and gentlemen: the option to choose. It would be unfortunate if customers were dissuaded from entering into contracts

they truly understood and wanted, due to the confusion of a prolonged process.

We propose that the legislation be amended to differentiate between good and bad behaviour. The bill would still give additional protection for sales that are initiated on the doorstep or on the phone, but it would not affect low-pressure marketing approaches that give customers an opportunity to make informed choices when and how they want. Earlier, I distributed the draft amendment that we believe would have this effect.

We hope the committee will give strong consideration to our proposed amendments to the bill and avoid punishing retailers who have been behaving responsibly.

The Vice-Chair: It's time for the official opposition to ask questions.

Mr Patten: Thank you very much for coming. It's good to see an actual retail outlet come and present at the committee.

You say it discourages low-pressure mail-in sales. I would have to get into what your recommendation is, and maybe you could elaborate on it. The intent is that we don't want people to be taken advantage of, particularly seniors—we've had a lot of complaints from seniors. The minister has said he would clamp down hard, and the energy board said it would do certain things. I guess the intent is to keep people from being locked in if they feel they have been duped over a particular period of time.

You're describing a three- or four-step process which on face of it sounds quite cumbersome to me. I might suggest another way to do that: if there is interest in the first instance, then someone may show up and talk or arrange a meeting with somebody. Is that an added expense that makes it much more unrealistic for your business to respond to?

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Mr Clark: We have no problem with answering questions, where they're phoning. We don't hire door-to-door salespeople, even at the behest of a customer. That's not in our business plan. We're not going to send people out door-to-door.

The situation we're worried about is: in our case and in our process, it's the customer who really initiates the offer to the retailer. If the customer has initiated that contact and the legislation also requires the customer to do a reaffirmation of that contract, which is what's in there right now, it's just going to be difficult for this kind of process to be successful. It's just asking too much of the customer.

When sales contracts have been signed as a result of somebody coming to your door or by telemarketing, that's at the initiation of the energy retailer. That's a situation where we certainly understand a step should be required by the customer to make sure that customer has had time to review the contract, has not been subject to high pressure and takes that additional step to ensure that's what they want to do.

But our process is a situation where the initiative has in fact come from the customer. So you're asking the customer to do two mail-ins, and there's a long period of time and uncertainty as to when those time periods apply.

Mr Patten: In the scenario you gave, I receive in the mail a blank contract from First Source with an invitation to sign up to receive their services. Presumably it's not just a blank contract, but there's information and a sales pitch as to why your company is the best and things of that nature.

Mr Clark: Absolutely.

Mr Patten: You say that's not initiating. It is initiating the opportunity. If someone sends it in, they're beginning the process of trying to arrive at an agreement with you. I fail to see what difference there is between that and receiving a phone call.

Mr Clark: If you're on the phone, you're not going to have a day or two or a week to review the information the person on the phone is giving you. If you receive information from First Source, it's in writing. You sit down and look at it, and if you don't like it, you throw it away. There's no pressure: there's nobody at the other end of the phone; there's nobody standing at the door. I would submit that's quite a different situation.

Mr Patten: Somebody can't sign up over the phone. They'd have to receive something in the mail in any case, wouldn't they?

Mr Clark: That's correct. But there are situations where certain vulnerable citizens may think they've signed a contract and are under an obligation to send something back. Again, it's a situation I think we can distinguish from the type of process that First Source uses.

The Vice-Chair: Does the government want to ask a question?

Mr Gilchrist: Thank you for your thoughtful presentation; it's quite distressing.

We've had countless people come before us to say, "Throw out the whole bill." Presumably, while we're damned for being ideologues, that sword cuts both ways, it seems. Every one of those people would have us throw out all the increased consumer protections that are the other half of this act. So I appreciate you at least raising the issue.

For the record, I tend to agree with you about the need to make a distinction between high-pressure and low-pressure sales. I spent 25 years as a retailer, and I'm struck by the challenges to walk that balance between recognizing there are bad apples out there. We've had a lot of problems, perhaps not as a percentage but in absolute numbers. Even if it's 100, and certainly if it's 1,000, that is a significant problem, and government has a responsibility to deal with those problems. There are fines and penalties, but that doesn't deal with the issue of letting the consumer off the hook.

Let me ask you: as an alternative to what has been proposed in the bill, if there was a requirement for you to remind the consumer after two weeks that they had signed a contract, and you do that in writing in some form you have mutually agreed on at the time the contract is originally signed—fax, e-mail or registered mail—and the customer is reminded in 16-point type that he or she has another couple of weeks—so that mailing

would go out any time between the 14th and 18th day. They're reminded that up to the 30th day they can, for whatever reason and with no penalty, withdraw from the contract. Would that be a reasonable alternative and something that would be easier for you to administer?

Mr Clark: The answer is yes, and I'll raise you one. I would even say, give them an additional 15 days to cancel after their first bill if they so wish.

Mr Gilchrist: In that regard, you would be identical—I think we heard from a group yesterday, and I don't want to misname the company. It was Ms MacDonald and Ontario Energy Savings. I believe that is their practice for gas marketing right now. They say, and I quote, "Finally, the first bill after flow clearly spells out that we are now the supplier and again gives our number. If, following receipt of that bill, any customer believes they did not understand what they signed up for, our policy is to release that customer from their contract at that time."

You're suggesting you would be quite amenable to allowing another 15 days after that?

Mr Clark: Very much so.

The Vice-Chair: Thank you very much for coming before the committee today.

CITY OF OTTAWA

The Vice-Chair: Alex Cullen from Ottawa city council. Welcome.

Mr Alex Cullen: Thank you very much, Mr Chairman and members of the committee, for coming to the nation's capital.

My name is Alex Cullen. I'm a member of Ottawa city council, representing Bay ward. I'm here to convey the position of the city of Ottawa opposing the provincial government's proposed legislation, Bill 58, which would permit the privatization of Hydro One.

The city of Ottawa, as you may know, is newly amalgamated from 11 previous municipalities plus regional government, with a population of some 774,000 people. It's Ontario's second-largest city as well as the nation's capital. It is also the owner of the second-largest municipal utility in Ontario.

Ottawa residents, like other residents in Ontario, are vitally interested in the future of such a basic public service as the supply of electricity. Their interest stems in part because some 87% of them will receive their electricity from Hydro One and have it distributed through our local utility, Hydro Ottawa, but also because some 100,000 people in Cumberland, Osgoode, Rideau and West Carleton in the new city of Ottawa receive their electricity directly from Hydro One.

The government's proposals to privatize Hydro One, announced without public consultation just a few short months ago, have captured the attention of Ottawa rate-payers. They have already faced electricity rate increases to pay for profits that the government's legislation permits. They now face the possibility of paying more for profits as a result of privatization.

On April 24, 2002, Ottawa city council unanimously adopted a motion. You have the text in front of you. The

salient point is that the city of Ottawa expressed its concern to the Premier of Ontario and the Minister of Environment and Energy about the negative consequences of privatizing Hydro One, and the city of Ottawa urged the government of Ontario not to proceed with any proposals relating to the sale of provincially owned electricity assets before there has been the opportunity for a full and public debate on this issue, both in the Legislature and elsewhere.

Members will be aware that this motion adopted by Ottawa city council resembles many others that were passed by municipalities across Ontario. There is, and continues to be, a large amount of public interest and concern in this matter.

Since then, the Minister of Environment and Energy conducted a hastily organized, ill-prepared set of public hearings, not on whether to privatize Hydro One but on how to. However, the reaction from the public and the efforts of the opposition and the media, and perhaps the proximity of some by-elections at the time, led the Premier to announce that the sale of Hydro One was "off the table." Despite that assurance, today we are faced with Bill 58, which contains explicit provisions that would permit the privatization of Hydro One.

As a result, Ottawa city council, at its June 12 meeting, unanimously adopted a motion stating, in part, "That the province of Ontario retain Hydro One in public ownership," which brings me to Bill 58.

For clarity, the key points of Bill 58 that I will be commenting on today have to do with the amendments to the Electricity Act that allow for the sale or disposal of Hydro One assets and for the possible restructuring of Hydro One into a non-profit corporation under the Corporations Act.

I understand there are other changes proposed in the bill to the Electricity Act and to the Ontario Energy Board Act as well, chiefly the retention of Hydro corridors by the crown and the addition of an energy consumers' bill of rights to the OEB act. In general, these appear to be positive steps, although it is clear that neither of these would have happened without the strong intervention of both opposition parties and the media.

In particular, the inclusion of an energy consumers' bill of rights addresses an issue of which I as a city councillor and others at the municipal level have been highly aware, since we are often the first people who get phone calls when consumers have been badly treated by door-to-door salespersons.

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Giving consumers some protection is clearly something that should have been done a long time ago, and the lack of this protection in the earlier versions of the act, first passed in 1998, reflects both bad planning and a naive assumption that the market will take care of everything if it is let loose. This error is compounded when the protections offered by the present bill do not apply to those million or so consumers who have already signed contracts with retailers. This is one area where the government can atone for its previous mistake by making these provisions retroactive.

Now I would like to focus on the proposed privatization of Hydro One from a municipal perspective. One point often overlooked in these discussions is that Hydro One is not only the monopoly transmission company in the province, as recognized even by the Premier; it is also now the largest distribution company in the province. Let me quote from the preliminary IPO that was released to the investment community just a few months ago, intended to promote the sale of Hydro One—the IPO that was ultimately withdrawn:

"Its distribution system is the largest in Ontario based on assets as at December 31, 2001, and spans approximately 75% of Ontario, serving approximately 1.2 million customers.... Customers of its distribution business include 42 local distribution companies that are not directly connected to our transmission system, 41 large industrial customers and approximately 1.2 million rural and urban customers. Since April 1999, the company has acquired 87 rural local distribution companies and one urban local distribution company, which increased its distribution customer base by approximately 25%."

Until the year 2000, most cities and towns in Ontario were served by non-profit public utilities, which supplied reliable electricity to residents and local businesses at cost. These utilities were locally controlled. This arrangement goes back to the very beginning of the electricity system in Ontario and was part of the system by which the people of Ontario governed themselves at the local level.

As a result of the Electricity Act—which, if we were to follow the government's usual style in naming legislation, should have been called the less local democracy act or the pay for profits from your pockets electricity act—these locally controlled utilities were converted into commercial corporations in 2000. They were owned by municipalities, as Ottawa's still is, but they were one step removed from the local control that people had been used to and were forced to act as commercial corporations, not as agents of public policy.

In the case of a large number of local distribution companies, their local control was put one step further away when Hydro One bought them. At that point, they weren't locally controlled or owned in any sense at all, but at least Hydro One was still publicly owned. Now the final step: the government's intention to sell Hydro One to private investors, as is permitted in Bill 58.

The people in these local communities have gone in roughly two years from being in control of their own fate to becoming customers of an impersonal corporation that sees them as a source of profits, rather than as citizens. The point here is that the privatization of Hydro One, and through it the privatization of a large number of local distribution companies, is not simply a commercial transaction; it is a basic, fundamental change in the way Ontarians govern themselves. Such basic, fundamental change requires, in our democratic society, consultation with the residents, ratepayers and voters of Ontario to determine if this is their will through referendum or through a general election. This the government has not done. In our view, it should.

The government's proposal does not, in our view, have the approval of the population. Residents in this city have clearly told me they wish to see this important piece of public infrastructure delivering a basic public good—electricity—stay in public hands, delivering electricity at lowest cost. They already pay more because of the government's insistence that local utilities must operate commercially and pay profit. They do not wish to pay yet higher prices to accommodate somebody else's profit from owning Hydro One.

It is because electricity is such a fundamental public good that the government of Ontario should consult fully with its taxpayers and ratepayers on the future of Hydro One. We all depend on electricity. For families with young children, for those living on low or fixed incomes and for seniors, having a reliable supply of this necessity at the lowest cost is absolutely paramount. Indeed, the reasons that prompted Premier Eves to pull the sale of Hydro One off the table remain valid today. This element of Bill 58 that would permit the privatization of Hydro One must be eliminated.

Lastly, I would note this bill would amend section 50 of the Electricity Act to allow Hydro One to be set up as a non-profit corporation. I have no idea whether this back-to-the-future section will actually be used; I have my doubts. But the proposed legislation clearly allows it, so it can't be accidental. If the bill allows the province to hold ownership in Hydro One in the form of a non-profit corporation, then why does it not extend this right to municipalities? If it's a good idea for the province, it should be a good idea for the municipalities as well.

It is true that many, but not all, municipalities have taken advantage of the province's new electricity regime to charge for profits from their local utilities, thereby creating the circumstance that hydro ratepayers are contributing to municipal buses or parks through their hydro bills instead of through their taxes. However, this profit-picking has not gone by unnoticed by ratepayers, and I suspect that many of these policies will be reversed in the next municipal elections, on the basis that hydro bills should pay for electricity and that's all.

From the point of view of good governance, local democracy and the interests of giving consumers of electricity control over an important part of their lives, I would urge you to amend the legislation to allow municipalities the same right that the province has taken with respect to the form in which it holds ownership of its hydro assets. I would challenge each member of the committee to tell me, if they are not willing to do this, why this is not a good idea for the people of Ottawa and for the people of the municipalities in which you live. If local hydro utilities worked well on delivering reliable electricity on a non-profit basis for many years in our province—and they did; they are not the authors of Ontario Hydro's misfortunes—supporting local communities and their businesses, then it should be left to the municipalities to be able to choose the best form in which to deliver electricity to their residents.

I'm available for questions if we have any time.

The Vice-Chair: Thank you very much, Mr Cullen. You've used up all your time. We appreciate your coming in today to make your presentation.

KEEP ELECTRICITY PUBLIC

The Vice-Chair: Is the Keep Electricity Public organization here? OK. If you could please introduce yourself. You have 10 minutes for your presentation, or you can leave time for questions if you choose.

Mr Hal Ade: Good afternoon, members of the panel. My name is Hal Ade. I'm the chair of the Keep Electricity Public organization here in Ottawa. As you can tell by our name, we're very concerned about maintaining public ownership and control of Ontario's grid-based electricity supply.

Today we're focusing on the potential sale of all or part of Hydro One, our transmission lines, into private hands. Even if a small portion of this system were sold off, at the very least private shareholders would demand profits as a return on their investment. Of course, it would probably mean a further rise in electricity rates to provide those profits. It could be argued that competition would ensue to ensure that such rates would actually decline, but this begs the question, what competition? It's doubtful that private entities would build additional transmission lines on more land, operating at a lower cost than the current Hydro One system for a lower rate for the end user. More likely, we would have the same old single system with the same type of maintenance, selling transmission at a higher price than we're now paying. In other words, there would no value added for that higher rate.

Assuming Hydro One is partially or wholly privatized, let's just suppose for a moment that government permitted competing transmission lines to be built by entrepreneurs enthused about the income they could be getting by transmitting electricity at much lower costs. This, of course, would not take into account the costs to the environment, an environment in which people are immersed. There is evidence that the resulting increase in electromagnetic and electric field intensity from these additional facilities would greatly impact the health of anyone residing near them. Though not immediate, it could result in an increased incidence of cancer as little as 10 years down the line. With children, who are far more vulnerable, it could be five years or less for the onset of leukemia or other grave cancers.

Besides that, more land would be taken out of agriculture, potential transportation corridors and, yes, wild lands, which many of us would like to keep if at all possible. This obvious overcapacity built at great expense by private concerns would allegedly be to eventually provide lower transmission rates to distributors and ultimately end users, whatever time frame that eventually means. Business knows that the risk of losing its investment in this new capacity would be too great, so I doubt it would be done.

Assuming any privatization of Hydro One and no additional transmission lines built, we'd obviously have an effective monopoly of the grid at least partially in private hands. Returning to the matter of profits, would there be a cap on transmission kilowatt hour rates, and how would we arrive at it? And really, how much more would the people of Ontario be expected to pay to provide those profits, which would not give them any additional value in return?

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The other somewhat dreaded alternative would be that these private owners would cut costs by cutting quality of service. Perhaps the voltage would not be regulated very well, because that would cost money. Voltage spikes resulting from poor power conditioning have resulted in damaged appliances, which are designed and built for a specific and very narrow voltage and frequency range. Poorly maintained transmission lines would deteriorate due to corrosion and other effects of weather and the stresses of carrying current. Would the private owners spend the funds to install the extra cabling to carry the increased current due to increased demand? With increased market demand with the same capacity as before, how very easy it would be to raise rates, assuming it is permitted by law, without increasing the capital investment. Market demand would mean the consumer could only look forward to paying more, with the blessing of the provincial government and the provisions of NAFTA, the FTA and, God knows, even the World Trade Organization.

Since I've come here, Mr Gilchrist has given us some additional information, which I didn't have when I prepared this presentation. I didn't know until today that the price of the raw current has actually gone down for a particular period of time. I contend that what people were doing was trading through the IMO. They may have bought electricity at, say, three cents a kilowatt hour, found that they were holding too much, and had to dump it. The municipalities took advantage of this and perhaps bought it at—what did you say, sir?—one or two cents a kilowatt hour, something like that. I contend, sir, that this is only temporary. Nobody trades in electricity or any other commodity without expecting that the price will eventually rise above what they paid for it. So you'll have fewer traders over time and the general trend will be up. Over a period of five years, expect to pay more, not because of increased costs of generation or transmission but because of the need to make money.

Due to these profit demands alone, not to any rise in transmission costs, many consumers would find invoices to come—not the next invoice—to be unbearable. These increased costs to businesses, especially those which are in no financial position to generate their own electricity as an alternative, would obviously necessitate price increases to their customers not only in Ontario, but in the rest of Canada, the United States—our major trading partner—and their customers elsewhere in the world. It's not rocket science to figure that Ontario would gradually lose its comparative advantage in electricity for trade

purposes, because for decades we've depended on cheap electricity to provide that advantage.

The members of KEP know that profits are necessary to ensure the provision of quality goods and services from private businesses which were not previously public. Electricity transmission, however, is now public, and is different from other consumer products, as it were, because electricity cannot be stored economically. Batteries are too expensive. Therefore it is used as soon as, or almost as soon as, it's produced. It has also become over the decades a necessity of life, akin to food, clothing and shelter. To provide a decent living standard to us all, we must have electricity at a very affordable rate.

It is not unfair to expect residences to use up to 1,500 kilowatt hours a month to live in decency, especially during hot weather, when many folks, mostly elderly, must have air conditioning to maintain their health. That takes a lot of electricity. Adding profits to this under a private system just increases costs to the consumers who must use a lot of it.

Contrary to certain free market dogma which insists that all goods and services would eventually decrease in price to a very comfortable level due to competition, the extreme improbability of competition with electricity transmission can only result in yet higher prices than at present, even if it takes five years for that to occur, since we know of no new technology ready for installation to reduce transmission costs. Therefore, eventually, when it comes to reduced rates, it means at least several months, if not years, of paying what to KEP and many others would be extortionate rates, albeit illegal. During that period, of course, no matter the preachings of the de-regulators that this would only be temporary, whatever "temporary" means, the consumer would have to pay and pay and pay, and some would go into poverty or extreme debt as a result. The only real advantage that we're going to get in electricity cost improvement would be in the matter of generation, and that has yet to come.

It could be said that the publicly owned and regulated electricity supply has been rife with waste and general inefficiency, since there is no drive to minimize costs to make profits. But that has only been true in the last 30 years or so due to a refusal or an inability of some past Ontario governments to oversee cost control in a businesslike manner—very little diligent auditing. But a public system doesn't have to be that way. With the last remaining fully publicly owned and regulated and publicly controlled component of Ontario's electricity supply system, there are superior reasons to keep these, our transmission lines, public, let alone statistics showing that end-user rates of public utility systems in the United States, where the profit motive drives so much of life, are about 18% lower than their privately owned cost-conscious counterparts in that country. The people of Ontario could elect an Ontario Energy Board beholden to all the voters of Ontario, not to government politics, and certainly not to special self-interest organizations. Its mandate would be to provide electricity to Ontarians at the lowest feasible price, covering all costs of course, and

bearing in mind that wages must be what most of us would consider fair for the job performed and complying with all environmental requirements. A constitution must be developed to enshrine that in an ironclad Electricity Act complete with spot audits. By the way, the public should decide in a referendum on whether any more of Ontario Hydro is to be sold.

The price of electricity itself has been deregulated since May 1 and we believe that eventually it's going to result in higher rates, which we'll see in subsequent bills. Let's not add to that burden by privatizing the only part of our electricity system which is still under public control. Let the public continue to exercise that control through good government. Thank you very much.

The Vice-Chair: Thank you very much, Mr Ade. You've used up all your time. We appreciate your coming in today to make a presentation.

OTTAWA AND DISTRICT LABOUR COUNCIL

The Vice-Chair: Is the representative of the Ottawa and District Labour Council here? Good afternoon, and please state your name. You have 10 minutes to make your presentation and/or leave time for questions.

Mr Sean McKenny: OK, and I thank you. Perhaps just before I commence, to the Chair, you could make a concentrated effort to keep Mr Gilchrist in line—a very, very disruptive individual.

Good afternoon. My name is Sean McKenny, secretary to the Ottawa and District Labour Council, which represents over 45,000 Ottawa-area working women and men.

I often have to pause and reflect as to the purpose or relevance of a supposed public process, as with this standing committee, hearing from interested citizens as to a direction or planned direction by government. A part of that reflection incorporates whether or not any purpose is served by appearing in front of such a committee to express an opinion. A part of that reflection incorporates whether or not the setting up of a standing committee for public consultations or hearings is solely for the appearance of fairness, for the appearance of public involvement, for the appearance of—dare I say it?—listening to the people, the key word in all of this being “appearance,” and the “listening” component in practically all like forums, as far removed from the process as the moon from the earth.

The people have spoken. The organizations, the businesses, the vast majority of those who will be impacted by a privatized Hydro have said, “Don't do it,” and yet the government continues to want to do it. Our city council in Ottawa and numerous other city councils in Ontario have said, “Don't do it,” and yet you continue to want to do it. The law has said, “Don't do it,” and yet you continue to want to do it.

With an incredible arrogance our provincial government says, “OK, we've heard you and we've listened and as a result we are only going to privatize a part of Hydro.

Let's say, well, how about 40%, 49%?” I suppose most governments intent on staying in their governance role for a lengthy period of time would like nothing more than to have a naive electorate. I can assure you that the vast majority of people are not naive. A smoke-and-mirror approach to Hydro privatization under the guise of 49% is probably more insulting to the people of this province than your original full private ownership ever was.

You have to learn to understand and to listen. The few people whom you've allowed before you speak with knowledge, and that knowledge is driven by a passion, a passion developed through direct exposure to the issue of Hydro privatization. It is truly a weak individual and a weak government that continually get their back up against the wall suspecting anyone, especially those with opposing views, as a threat to their ideologies or power base, and act with such venom and arrogance that even if those opposing views are in fact the correct ones, the admission to that fact is never, ever made. Never mind the destruction, and we have all seen this over the last few years with the Ontario Conservative government.

1650

We have in Ottawa a man by the name of John Taylor, Professor Taylor, an urban historian and long-time member of the history department at Carleton University. Professor Taylor wrote an incredibly fascinating book on Ottawa and I highly recommend it to all committee members. Published in 1986, it's called simply *Ottawa: An Illustrated History*. This is what it looks like, Mr Gilchrist.

I'll refer to a section of that book. I'll be providing a copy of my presentation to the committee, but for the record, I'm looking at page 100, and we're now—here you go again, Mr Gilchrist—in about the early 1880s in Ottawa. This is a quote from the book:

“The city also moved past the stage where a ‘juvenile police’ was sufficient to rid the streets of cows and pigs; where carters were sufficient to supply water; and an annual spring cleanup and liberal spreading of lime fully served the needs of public health. Growth, congestion and the pretensions of being a modern capital all demanded the provision of modern services; gas, street lighting, water, sewers, roads and sidewalks, telegraph and telephone, garbage collection, horse-drawn trams, and electric power. It was in Ottawa, as elsewhere, the age of urban infrastructure. And it altered city government as much as it altered city landscape, producing in its wake not only a modern police force and fire department but an expanded and more professional ‘civic’ service to manage and regulate a city converted to ‘gas and water socialism.’ An expanded local government quickly filled the new city hall.”

I'm still reading from the passage.

“Gas, the horse-car line, electric power and traction, all developed in Ottawa as private monopolies, controlled by the most powerful of its economic and political elites. Their access to money and to politicians at the senior levels of government, and their influence in municipal government, generated a running battle between the city

and its service monopolies for nearly two generations. As for the public monopolies—roads, the market, sewer and water—their development reflected cleavages between the rich in property and the poor, and inevitably revolved around racial and religious divisions.

“Civic experiments with electric street lighting, for example, were made as early as 1882 when power, generated at the city waterworks, was applied to a bank of carbon arc lamps, attached to a tower or ‘mast’ overlooking the Flats.” That’s Lebreton Flats, Mr Gilchrist. “There was apprehension among some members of the community regarding the effects of turning ‘night into day.’ The light was ‘brilliant’ enough ... but the difficulty in its efficient working appears to be ample steady power for driving the dynamo machine.”

I’m still reading from the passage.

“City council was still, by 1883, somewhat ambivalent about moving into the light business. There was risk, though also the possibility of profit. And there was, even in the Victorians’ enthusiasm for innovation, scepticism. ‘In short,’ said Mayor C.H. Mackintosh in an 1891 report, ‘daylight has been such a cheap blessing hitherto, that the payment of \$150,000 per annum for a little more of it, will scarcely meet with the approbation of those who take a practical view of the subject.’

“A range of influences—including the opinion of the city engineer, and possibly the new mayor, C.T. Bate—tipped the council in the direction of the private sector, when two offers to light the city were placed before it on 15 September 1884. One was from the Royal Electric Co of Montreal, the other from two local entrepreneurs, Thomas Adhearn and Warren Y. Soper, who in 1882 had incorporated a partnership to carry out electrical engineering and contracting. The latter, after some nimble and murky politicking, won the contract in the name of the Ottawa Electric Light Co (OEL).

“In May 1885,” again, still reading from the passage, “electric lighting commenced. The fire and light committee reported at year’s end that ‘the city is the best lighted one at the present time, being the only city in Canada that is entirely lighted by electricity.’ It is to be noted, however, that Francis Clemow, long-time manager of the gas company, the displaced supplier of street lighting, was by 1888 managing director of the electric company.

“On the strength of the street-lighting contract and the franchise awarded by the city, Adhearn and Soper and their partners—like Erskine Bronson—would build an empire,” Mr Gilchrist, “consolidated in 1908 as Ottawa Heat, Light and Power, and in doing so, generate a running battle with city council, which for twenty years would itself be divided over public versus private power.

“The city’s chief method of checking the OEL was to franchise competitors. The OEL’s counter-strategy was to buy them up. It struck a rock, however, on Consumer’s Electric ... which the city had tried to protect by making sale to OEL impossible under the charter. Adhearn, a political Liberal, was well connected with the Liberal government in Ontario and lobbied successfully to have

the clause removed. But just before the removal became legal, the city in 1905 purchased the company for \$200,000. With a distribution network, but no generating plant, it formed the core of the municipal electric department and subsequently Ottawa Hydro.”

Even back then, Mr Gilchrist, 100 years ago, this was a no-brainer. Private ownership of hydro didn’t work.

The Vice-Chair: I would ask you to address your speech to the Chair, please.

Mr McKenny: OK. I’m trying to give him the attention that he so desperately seeks.

The Vice-Chair: Please address the Chair.

Mr McKenny: All right. We had the reverse happen then. We went from private ownership to a public one, and there are all kinds of historical examples in different cities across this great province of ours, and indeed this country, similar to Ottawa’s. Yet now the Ontario government is suggesting that we in effect go all the way back to the early 1900s. It’s simply mind-boggling, Mr Chair.

There is absolutely no one who stands before you today or over the last while who has added anything new to the issue of privatization, in whole or in part, of Hydro. You’ve heard the vast majority speak in opposition to the move. You’ve heard incredibly knowledgeable people address, as part of that opposition, the main points that you use to promote the idea of a private Hydro, such as the debt, capital investment, efficiency.

On behalf of the working women and men of this city, I ask you to hear what the majority is saying. As a part of that hearing, we ask you to listen this time. As a part of that listening, we ask you to comprehend. That comprehension, if you in fact you can get there, we are confident will lead you to the only decision available to you.

It’s not a political one. It’s not one designed to appease this government’s Bay Street friends. Let’s use the Ontario Conservative government’s own highly touted words over the last few years, as in “common sense,” and in the process, let’s keep Hydro, the whole of Hydro, in the hands of all those individuals who call Ontario home.

The Vice-Chair: Thank you, Mr McKenny. It’s time for the official opposition.

Mr Patten: Thank you for your presentation today. That is a good book. I have a copy myself.

There are a number of things you raised which I think were important. You asked about the purpose of this committee, number one, and you pointed out that there wasn’t one company and today that is true. There was one retail company that was here but I didn’t hear the argument in favour of the overall privatization.

Ms Churley: Nowhere.

Mr Patten: Not anywhere. So your point is well taken and I think the government should heed just that fact, that there is no one coming forward with any degree of enthusiasm: “This is great. This is going to be a great thing for the people of Ontario.”

In terms of the relevance of this committee, at the end of day—I don’t think the government will do this—if the

government is serious, it will mean that they will entertain amendments. They will actually amend some of the legislation and they would come forward for some further reaction to those amendments in the House. I think what the government will try to do is ram this through in the next week because they want to get out of there by next week, by Thursday.

Mr Guzzo: Speak for yourself. I want to come back in July.

Mr Patten: That's right. Mr Guzzo and I want to be there in July, but I don't think the government does. In other words, we'll see at the end of the day whether they really adopt any of the amendments that were put forward, other than the ones that they put forward themselves, because that really is the test. But I want to thank you very much for your presentation.

The Vice-Chair: Thank you very much, Mr McKenny, for coming in today. We appreciate your taking the time to come in.

QUOC-HUNG DANG

The Vice-Chair: Our next presenter is Quoc-Hung Dang. Welcome, Mr Dang. You have 10 minutes to make your presentation, or you may use some of it for questions, if you want. Go ahead.

Mr Quoc-Hung Dang: I am now a student at Ottawa university and I have been doing projects and the national council saw them. Many teachers and other students saw it, but the point is something that they saw. It's on paper; it's not realized but it's about at the point to realize it. It

is amazing because it just gives some free energy. That's why I'm a little bit uncomfortable saying these sort of things. So that's why I would like to comment; that's all. I may leave some documents back here so that people can take a look whenever.

The Vice-Chair: Yes, you're welcome to leave documents with the committee.

Mr Dang: Another thing I wanted to comment on: I have been studying at the university of Quebec at Trois-Rivières. I did a baccalaureate in electrical engineering. One of our teachers, when he taught the thermal dynamics course—I don't quite remember, but inside a closed container they put some liquid and they put too much pressure on it and at some point it disappeared, and when they took the pressure off, the substance reappeared. He said that nature hides things, because how can you apply theory with something that just disappears? So I would like to relate it to my device, which just gives free energy. That's all.

The Vice-Chair: Do you have anything you want to say on Bill 58 at all?

Mr Dang: That's it. That's all.

The Vice-Chair: Very good. Thank you very much for coming in. Does anyone have any questions for Mr Dang?

Mr Patten: I'd like to see his document.

The Vice-Chair: You'll leave your document with us.

Those being all the presenters, this committee stands adjourned until 9 am tomorrow in Chatham.

The committee adjourned at 1702.

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Samedi 22 juin 2002

Standing committee on general government

Reliable Energy and
Consumer Protection Act, 2002

Comité permanent des affaires gouvernementales

Loi de 2002 sur la fiabilité
de l'énergie et la protection
des consommateurs

Chair: Steve Gilchrist
Clerk: Anne Stokes

Président : Steve Gilchrist
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LEGISLATIVE ASSEMBLY OF ONTARIO

ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

STANDING COMMITTEE ON
GENERAL GOVERNMENTCOMITÉ PERMANENT DES
AFFAIRES GOUVERNEMENTALES

Saturday 22 June 2002

Samedi 22 juin 2002

The committee met at 0903 in Kinsmen Auditorium, Chatham.

RELIABLE ENERGY AND
CONSUMER PROTECTION ACT, 2002LOI DE 2002 SUR LA FIABILITÉ
DE L'ÉNERGIE ET LA PROTECTION
DES CONSOMMATEURS

Consideration of Bill 58, An Act to amend certain statutes in relation to the energy sector / Projet de loi 58, Loi modifiant certaines lois en ce qui concerne le secteur de l'énergie.

ONTARIO FEDERATION
OF AGRICULTURE

The Vice-Chair (Mr Norm Miller): I'd like to call this meeting to order. Our first presenter is with the Ontario Federation of Agriculture, if you could introduce yourself. You have 10 minutes to use as you please. You can either make a presentation for the whole time or leave time for questions, as suits you.

Mr Lynn Girty: I want to make a correction on your sheet. I am chair of the hydro subcommittee. Our current president would feel upset if I all of a sudden usurped him without an election.

First of all, we want to thank the committee for having these hearings. It is important to understand what we believe is a change in the way we are addressing this very important issue of hydro. Clearly, this whole system must be dealt with in a way that looks after the interests of the consumers and not be based on pure ideology, as has been somewhat the case until now. So we do welcome that change.

I have submitted copies. All of you are supposed to have those by now, as I understand. I'm going to take parts and go through them.

Ontario is used to, and generally pleased with, ownership of power lines where the owners are motivated by the need to ensure reliable service. This has worked without a hitch for over 90 years, using PUCs in most of Ontario's cities, and has worked very well until recently in rural and small-town Ontario using Hydro.

The PUCs were effectively regulated by the fact that they were elected and by the fact that they compete with

each other to provide good service at low cost in order to make their towns good places to set up businesses and to live. A great many Ontario people think this kind of public ownership of such natural monopolies works, and works well.

OFA has put their presentation together with a basic set of principles. One principle is that no matter what you do or what we do, the consumer will pay all the costs. You don't have to get fancy about the public and the private going to pay costs. Private enterprises, of which I am one, do not pay costs. We pass costs along. That's why we're there. We're in business to make profits. And if we have to borrow money, then besides the profits we want to make a return on investment. When you keep those kinds of principles in mind, along with the fact that we have an excellent working model in the PUCs, we would like to suggest there are some things we can do to make this system better and more accountable to the public.

First of all, transmission is a natural monopoly. It is the system that controls the grid. He who controls transmission controls the whole grid. The transmission system must be kept in public hands. There are opportunities for the transmission system now to be run by the supposedly publicly accountable Independent Market Operator. There certainly need to be some changes there, relative to the issues of accountability to the public and dissemination of information. Nonetheless, it is still a publicly accountable body that can make contracts with the local PUCs to make sure work is done on the transmission grid to meet the needs of the consumers all over Ontario. That's part of Hydro One, then, that doesn't need to exist any longer.

However, we have a range of ongoing difficulties embedded in the market power agreement that is in place now, and they're on page 2. One is that existing generators at the moment—I'm switching from transmission to generators—do not have to pay for connection to the grid, while new ones will have to pay. This gives existing generators a cost advantage and discourages new generators. All generators should have to pay for connection.

Second, export rates for transmission from Bruce to Detroit are 10% of the domestic rate—one tenth of the cost from Bruce to Windsor. This is an export subsidy and is wrong. We must credit the new minister and the old: they both confirmed these were the facts and have

given us encouragement to keep going. Moreover, it allows the exporter to boost the power price by the difference in transmission cost and encourages export.

Distribution is an entity that has two owners. You have the current PUC model, which works well and has worked well for many decades. That model has worked well because it is publicly accountable. The citizens who have it are the ones who are paying the cost. Those PUCs have to be competitive with their neighbours, or development will not go into those specific areas. At the same time, you have a system that, if it needs to be repaired, will be repaired by the people who pay the cost—again, the citizens of Ontario.

The other part of the distribution system is Hydro One. Hydro One, or old Hydro as it was termed, worked extremely well for many years. However, it suffered from a thousand cuts and is not working well at the moment. We would suggest that the government would be well placed to make it more attractive for the PUCs to pick up their respective rural distribution systems and manage them. In all cases, PUC areas are better served than Hydro One areas. We have an example of that here.

On page 3, at the bottom, we talk about some of the disadvantages of Hydro One at the moment if they continue to go as they are. At the moment we are allowing Hydro One distribution to generate a profit of \$323 million. That is equal to the entire profit out of farming in rural Ontario now. So you're just taking all that money out of the system. That means the rural areas will no longer have spare cash to maintain their areas and to assist in getting development.

0910

At the same time, Hydro One has cut their maintenance fees by \$200 million. It is virtually impossible now for economic development to happen in rural Ontario, partly because there can be no dependability or reliability of service in the rural area simply because Hydro One is unable to do that. We would recommend again that the PUCs take over Hydro One service areas where they can and, in areas where there are no PUCs, that we make it advantageous for PUC-like systems to be set up, again accountable to the public.

One of the other issues with Hydro One that can be resolved with PUCs is that Hydro One has not signed any reciprocal agreements with ambulance, fire or other services to assist in servicing the people. PUCs do that now.

In terms of fundraising for maintenance and growth, the PUC model would raise funds in several ways: the municipality could lend the PUC funds, the PUCs could collect contributions in aid of construction from customers, the PUCs could set rates to fund growth or PUCs could fund growth or maintenance out of retained earnings. In no case would the province be called on to guarantee or assist in funding growth, repairs or maintenance. The costs would be borne and raised locally and local people would enjoy the results, and again you would have the public accountability through the electoral process.

On page 4 we've done a section on the arithmetic of selling Hydro One. I'm not going to go through it all because of time constraints. In essence, you would have to generate a minimum of \$8.1 billion from the sale just to break even with what you have now, in terms of income generation. Even if you do that, you've lost control of the system. We would suggest that is not in the best interests of Ontario citizens.

The minister has indicated, in terms of the trade issue, that he has found a lawyer who has suggested we would win trade arguments if we privatized Hydro. I believe the minister has probably found that lawyer. In our system we have lawyers every day who are paid to argue both sides of any issue, so there is no doubt he's found a lawyer who will argue that. That's irrelevant. What's relevant is what the decisions have been up to now. All decisions have been against that kind of issue where you would have control. If it's privatized, the needs of the consumers will be abrogated or subrogated to the needs of the broader-based trade deficit. That is proven in law. We've had discussions with the new minister—he granted us a meeting after he said that—and he agreed that is probably the case and is certainly going to be an important issue we're going to have to deal with and it's one of the reasons we need to retain public control.

In summary, apart from protecting the environment, the need for a public role in building or maintaining generation is largely past. OFA encourages a market in the generation of electricity and asks that price-setting be made more competitive than the present price rule will allow. Transmission should be owned and run by the province, and new assets should be built with customer participation; this is the PUC model.

We close by suggesting that OFA wants every effort to be made to extend the PUC model to distribution for small and rural Ontario, and Hydro One distribution assets and appropriate shares of the Hydro One debt should be sold or even given to the municipalities, because again, in the end, the customer will pay the debt.

The Vice-Chair: Thank you very much. That allows us time for a question. Mr Hoy, thank you for welcoming us to your riding. Would you like to ask a question?

Mr Pat Hoy (Chatham-Kent Essex): How much time do we have?

The Vice-Chair: You have a minute.

Mr Hoy: First of all, let me thank you for making the presentation today on behalf of the OFA, farmers and rural customers. You mentioned that Hydro One must stay in public hands. There are reports in the media, and even indications from the government, that they might sell part of Hydro One. You say, keep it in public hands. Do you mean 100% of it or some portion thereof?

Mr Girty: We believe that the entities Hydro One controls need to be kept in public hands. The public hands could very well be PUCs, which are in public hands. If you don't want to keep Hydro One, allow the public to own it through PUCs. The government could, if they wanted, sell the building in downtown Toronto, because you wouldn't need it any more, but the entities

that Hydro One controls—transmission and distribution—must be kept in public hands. If Hydro One is not going to be allowed to operate it properly—which they aren't now on either end from a rural perspective—then we have the PUCs operate it, and we disband Hydro One and sell the building.

The Vice-Chair: Thank you very much for coming in today and making your presentation. We appreciate it.

RETIRED TEACHERS OF ONTARIO

The Vice-Chair: Is there a representative from the Retired Teachers of Ontario? Please state your name. You have 10 minutes to use as you please.

Mr John Tomlinson: John Tomlinson is my name. I'm from Windsor, although I was previously bureau chief for the Windsor Star in Chatham and Wallaceburg, so I have some familiarity with the area.

The Retired Teachers of Ontario did present a brief previously, so what I'd like to do is update the brief that has already been presented and make a couple of points.

First of all, the issue of competition: I'd start there, because I think much of the discussion with respect to privatization has been about competition. A concern we have is about the model or models that are used. For example, should there be different models to look at, provincially or internationally? How are hydro generating and transmission systems seen? How do they work in other countries? The most competitive model according to the Geneva-based World Economic Forum, or the most competitive country at least, is Finland, not the United States. Have we looked, for example, at northern and western Europe? What do they do?

Clearly, the key would be controlled management in an efficient way and what is cost-effective. So I think we really need to look at other models. I'm not sure we have done that. For instance, in the Windsor consultation which I was present at, there was nothing that was discussed about Alberta. I believe that is perhaps an issue as well. How does that fit into this? Has it worked well? There seems to be some discussion about how well it has worked.

Since low-cost and stable supply is something Ontario consumers are after, another tangential part of that—it comes back to us being from Windsor—would be safety concerns. I speak to regulation and enforcement: properly funded and supported enforcement agencies.

For instance, one of the things I did when I was a bureau chief for the Windsor Star was to cover energy board hearings, and occasionally, even in the past, there have been some difficulties that farmers have had. I know Union Gas presented in Windsor. I was at a hearing where Union Gas, as a model, had disconnected—if that's the word—one of the farmers, because it wasn't cost-effective or efficient in terms of their economies of scale to have isolated farmers hooked up in some cases. So I'm aware that the Union Gas model presented in Windsor may not always be a useful model. There are some disadvantages, obviously, with respect to rural

areas or isolated areas in the north. If we look strictly in terms of how economies of scale work, if that's what we go by, that would obviously be a concern. It has actually occurred here, which is perhaps surprising. So as a model—and again, there was a salesperson who presented in Windsor—I would simply bring that to your attention.

Another thing that bothers me would be the need to have unscheduled monitoring and checking—I've been familiar with the Chemical Valley in the past—and that has not always been true of government agencies. They haven't always done unscheduled monitoring. Often in the past, people have known in advance. There has been scheduled monitoring. So I think we need to build that in.

Clearly, with respect to the nuclear area being in the Windsor-Essex county area, the Fermi example near Amherstburg is a horror show. It's just a horror story about what can go wrong. Typically, I think if we use the American model, those safety concerns have to be really addressed. In this area, at least in terms of Windsor and Essex county, that certainly has been our experience. We don't believe the private sector has looked after that particular Fermi site very well.

0920

What do we have built into this particular system with respect to whistle-blowing? If people see something wrong in the system, are they protected? Is that part of what we're doing here? We need to do that. We have to do that.

Infrastructure spending must be maintained so that many of these problems don't occur. This can't be ignored because of constraints and cutbacks. The infrastructure spending, from what I understand, has not occurred as it should have. This is very serious. It will cost more in the long run. Why would we do that? We can't do that. There has to be consistent infrastructure spending. As well, this increases danger.

Regular incremental rate increases: where there need to be rate increases, there should be rate increases. If we needed to do that before—it's almost like a blame-the-victim mentality in my mind—why have we not done that? If we haven't done that, we should have. Why would we now be in a crisis situation because incremental increases haven't occurred? If they're deemed necessary, fine.

What I think the consumer needs to be looking at is, if there are special deals for the so-called big guys, what happens to low-income people? What happens to seniors? What happens to the average person? All of that is not necessarily clear to me. If we make these special deals at the expense of the average consumer, I don't understand why that's a good thing.

If we need other models, to get back to that question, I have a suggestion. Perhaps after the interim board is no longer there, however that's fixed, I think Howard Pawley, former Premier of Manitoba, distinguished scholar in law and political science at the University of Windsor, would provide valuable input. The Manitoba example is well-run, profitable, expanding and publicly

owned. Why would Howard Pawley not be somebody who would be useful to have on a board? If there's to be a balance, and arguably that seems to be something the government looks to, we have people in our area who I think would be very good. Certainly Howard's reputation in terms of his experience would be something to look at.

So it is trust and confidence in the long term and stability; not the whims of the marketplace, not worrying about US shortages, not worrying about NAFTA challenges if a partial sale occurs, because we don't know who is in control. I think that is a danger if we look at partial sales.

Essentially, as the retired teachers group, we are opposed to privatization, as many municipalities have expressed, as the polls have expressed. Seemingly the majority of people are opposed. But I think it's the slippery slope of partial privatization that concerns me at this stage, because if in fact some of this is privatized, where does that leave us? Why would we do that? We may be opening up a situation that we really don't know how to address. Certainly, again, the NAFTA case is very significant.

I'll conclude. Again, these are just a couple of sentences from our brief. Based on research undertaken by our members, it is evident to RTO/ERO that the government has neither the support nor the mandate of its electorate to deregulate electrical energy. The government has no political mandate to sell Hydro One or any other component of the public hydro system. It also does not have the legal right to do so. Meaningful consultation with the public is not to be confused with governing by polls. Governing by leadership is not to be confused with listening to the people.

Our concerns, which again are on page 2 of the brief that was previously submitted, would include the negative experiences of jurisdictions outside of Ontario, including Alberta and California; the unlikelihood of maintaining stable, affordable prices for this precious commodity in a privatized retail market; having to sign, in many cases, with unknown suppliers; lack of legislation and regulations in place to deal with the control of transmission costs, generating costs, safeguarding against the creation of shortages by American retailers to falsely increase prices, maintenance of lines and poles, which has often been spoken of in the consultations, servicing remote areas and small isolated communities, which I've spoken to, and pollution—an interesting issue as well; that would be perhaps a separate one—and nuclear waste control for private retailers, which is very serious; the lack of a legal mandate by the government to sell this valuable commodity to the private sector; and the lack of resources of the private sector to manage the distribution of service as compared with government resources to deal with an emergency—a major point—such as eastern Ontario's ice storm of several years ago.

The Vice-Chair: That allows time for a short question. It's time for the third party. Mr Bisson, welcome to the committee. Go ahead and ask a question.

Mr Gilles Bisson (Timmins-James Bay): Unfortunately, I only heard the last part of it, so I'm going to

reserve the questions for my colleagues who are here. But just by way of apology, it took about 30 minutes to find a cab from the airport, so I'm a little bit late flying in from Timmins this morning. I apologize. But I'm here for the duration. I cede my time to the Liberal caucus.

Ms Caroline Di Cocco (Sarnia-Lambton): You were saying there is an assumption that the private sector is going to invest. One of the comments that I found interesting was the possibility of partial privatization. Can you just reclarify for me the notion of what you consider that slippery slope of partial privatization?

Mr Tomlinson: As I understand it, under NAFTA, if we start to partially privatize Ontario Hydro, we are opening up a situation that we really don't know where it will lead. So if we basically keep it publicly owned and publicly managed, it seems to me it would be much safer. In the long term, my opinion, for what it's worth, is that if we look at other models where there is public ownership, they've been very efficient. Why would we want to open up this possibility? For example, we could be doing something that is quite legitimate but we could find ourselves in the courts having to defend a position which perhaps is justified but, because of NAFTA challenges, we may be having our hands tied. So I just feel that's a very unfortunate position to take as a government when we don't need to do that, in my opinion.

The Vice-Chair: Thank you very much for coming and taking the time to make your presentation this morning.

WALTER SPENCE

The Vice-Chair: Is Walter Spence here? Welcome, Mr Spence. You have 10 minutes to use as you please.

Mr Walter Spence: I'm here this morning as past president of the chamber of commerce, representing my age group, the senior citizens.

I'm not sure whether you have the first part of this presentation or not, because it's been presented to a couple of committees already. I'd like to briefly touch on the part of it that has been presented, just in case you haven't already seen it, but I'm pretty sure there's a copy for everybody.

Hydro deregulation: \$38 billion, which includes the cost of all high-paid COs who came and left over the years. I would ask a question: show me any place where this type of system has worked in the past when they've tried to use it—Canada, the United States, you name it.

As you know, the Pennsylvania system of electrical deregulation was held in very high esteem by the former Premier, Mr Harris. A Canadian promoter, Mark Adler, said Pennsylvania is held up as the best example of where everybody wants to be at the end of the day. Mr Ridge, a friend of President George Bush, carelessly promoted the Pennsylvania scenario as an eager energy star and, by doing this, he has somewhat hindered his presidential outlook. As you know, this caused a lot of financial problems in the States and I don't think we really want to go into a situation like that. When you read

about the Pennsylvania fiasco, I hope this committee convinces Premier Eves to stop this movement to sell Ontario Hydro once and for all. Once you read that, I can't understand why anybody would make a decision to do otherwise.

I'm sure you have all heard—and this is the part that hits home because, as I said, I'm in that age group now—about these so-called contracts for sale of electricity, natural gas and telephone. I would hope that all members of this committee have looked at one of these contracts. If you haven't, I urge you to look at one. The problem that exists with these contracts, and the high-pressure salespeople who sell them, is that they are immoral, illegal, and should not be sanctioned by the government the way they are written.

0930

I have a news release that was printed in the local papers and I would like to make sure the people in the province of Ontario read this, because it states that the "Quick Buck" contract is a deliberate and binding document that will take away your pocketbook and your savings. This has been proven in California, where so many thousands of senior citizens have lost their savings and even had to mortgage their homes. I don't think we really want that to happen in Canada, in the province of Ontario. We stand for a lot better than that.

You will find a response covering part of this news release, "The Privatization of Hydro One." I have also given you copies of a news release from the Hamilton Spectator with a copy of the Ontario Hydro mission statement. Hydro made a mission statement; you should read it. It's not very long, and it should be accompanied with this; I'm pretty sure I put it in here. Yes: "Ontario Hydro—Proud to Serve Ontario." But read their mission statement. I would ask that you read it and draw your own conclusions on selling Hydro One, which, as you all know, the province does not in any way, shape or form own. How can you sell something that you do not own? In 1997, when they tried to do the same thing, I stood up at the meeting with the provincial government at the Royal York and I said, "You're going to sell this?" "Oh, yeah. We're going to sell everything." I said, "No, you're not. You don't own it." It stopped dead in its tracks and I heard no more of it until now. Now they're doing it again. Did they think I forgot about it that quickly? You can't do something like this. It's against the law.

Advocating the sale of Hydro One, or any part of it, has brought about very different approaches to the way utilities sell hydro, the way utilities are charged for hydro, and the threat to utilities for the large debt payments to cover the \$38 billion that Hydro is supposed to owe—supposed to owe. A statement was made recently by our Ontario Treasurer that selling a portion of Ontario Hydro, approximately 40%, for \$2 billion would help balance a \$65-billion budget. Now, I've only been in business for 46 years, and if you can show me where 2.5% will balance a provincial budget, then I think we need to look at a new accountant. Since when would 2.5% help balance that, when 40% of Hydro is worth

\$12 billion to \$15 billion? Forty per cent of Ontario Hydro holdings is worth \$12 billion to \$15 billion, and we're going to sell it for \$2 billion? This is the real world, ladies and gentlemen.

I would draw your attention again to the irresponsible, illegal, immoral and fraudulent way the government is allowing these contractors, if you wish, to sell hydro, gas and telephone to the public at large. As part of the contract you sign, along with large increase in costs, the company may require you to pay a \$200 deposit up front in case they're not making any money. I'm sure you've all read this, because you can print it right off the Internet and it tells you what they're going to do to you before they do it.

When you stop and think about this, the Ontario government allowed these companies to become incorporated by licensing from the provincial government. I would say the provincial government should cancel these incorporated bandits. Why do I use the word "bandits"? Well, I get telephone calls and people coming to my office, and they say to me, "Last night at 9:30, two young people came to my door and demanded to see my utility bill. When I said no, they got very arrogant about it and said, 'If you don't show us your bill, we're going to cut your hydro off.'" Now, if the word "bandit" doesn't fit that, I don't know what does.

I would draw your attention to item 1 on the back page of this presentation. I'm pretty sure the back page shows a copy of my utility bill. To make it simple, the bill itself for energy is \$20.95; the water and wastewater portion of the bill is \$6.48. Adding these two together, you get \$27.43. Now, when you add up all the charges on the bill—and I don't know what you call them; you look at it and you tell me what you call them—my bill comes to \$174.85 for \$27.43 worth of energy and water. This is what the government of the day is forcing the utilities to do. They say they've got to pay this big debt; they're going to have to do this and they're going to have to do that. Pretty near every other day they are getting something telling them they've got to charge for. If my bill was \$27.43, I've got a 500% increase in service charges.

I would like to leave you with one saying. I know maybe a lot of you don't go back this far, but it's a phrase from Tennessee Ernie Ford's song and it went like this: "Another Day Older and Deeper in Debt.... I owe my Soul to the Company Store." That's just about exactly what's going to happen if this fiasco proceeds. You might think the line really doesn't mean much, but ask 100,000 senior citizens in California and other areas where this was allowed to happen, who lost their savings and mortgaged their homes, how they feel about it. I don't want this to happen to anyone in Ontario who has worked all of their life and is now a senior citizen enjoying the benefits of their labour.

I challenge the Premier of this province—and I can do it because I've known him for years; I dealt with him, having been 30 years in politics—and the elected MPPs not to allow the sale of Hydro One or the continued sale

of these ridiculous contracts. If you do, you are deliberately deserting your people in this province.

Thank you, Mr Chairman.

The Vice-Chair: Thank you, Mr Spence. That allows time for one short question from the government side.

Mr Steve Gilchrist (Scarborough East): Thank you very much, Mr Spence. You raised a number of issues, and I wish I had the time to refute a number of the incorrect assumptions you make here. For example, Pennsylvania's wholesale price has dropped 10% in the three years since their market opened. I would be happy to share these detailed statistics with you.

Let me go right to your bill, at the tail end. In fact, your rate went down. If you look carefully at your bill, what it's saying to you is that the top line was the charge for the last six days of April. Your bill straddled May 1 when the market opened. You were paying .0743 for your power in April. That dropped, when you add up the other charges, to .0728. The only difference is that now the charges are broken up. For the first time in your life, you know where your money's going when you pay your hydro bill. You probably didn't know you were going to subsidize all of your life people in northern Ontario. You probably didn't know there was a distribution charge that went one way and a generation charge that went the other way, because there have always been private generators in this country.

Mr Spence: That's correct.

Mr Gilchrist: So your rate went down. I see here as well that your previous month's bill was \$185. The month you're suggesting there was a 500% increase, it went down to \$174.

Mr Spence: That has no bearing on it, because a year ago—and I should have brought the bills—I was paying \$107 for the same thing.

Mr Gilchrist: But the rate didn't change up until May 1.

Mr Spence: But I'm paying a lot more now than I paid then.

Mr Gilchrist: Then you're using more power.

Mr Spence: No, I'm using less power.

Mr Gilchrist: Well, sir, unless your local utility raised their rates, I would invite you—you say you were in politics for 30 years. I'm going to tell you that Chatham deserves some credit. They're one of only about two or three communities in all of Ontario that didn't jack up the profit on all of their power to the maximum allowed by law. They went to only 6.04%. Every other utility in this province, save one or two, added 10%—9.88%. They turn and point a finger at us. They raised your rates 10% if you live outside Chatham and 6% in this community, and they've gotten away with it because it has always been buried in your bill and you never saw that before.

So I agree with you: we don't want to see rates go up. But let's call a spade a spade, and if the Chatham PUC raised your rates, please don't suggest that Queen's Park had a hand in that.

0940

Mr Spence: They're telling me that they have to raise the rates because of the charges that are going to be

coming for the cost of paying off Hydro's debt. You can go to the PUC and ask them.

Mr Gilchrist: They have always been non-profits. They always had to cover their costs. They are now covering their costs and adding another 6%. That's what the Chatham PUC is doing to you today.

Mr Bisson: That's the legislation, Steve. It clearly has allowed that, plus the legislation has increased in order to pick up the retired debt. So be truthful.

Mr Gilchrist: This wasn't your turn. And that's not being truthful. They can continue to operate as non-profits. There's no law that said they had to jack up the rates for Mr Spence.

Mr Spence: I don't mean to cause an argument, Mr Chairman, but what I wanted to do was get my point across to the government to look at this stuff. Whether it's right or wrong, I want it looked at because the senior citizens are being taken down the road and I'm not going to stand for it.

The Vice-Chair: Thank you very much for coming, Mr Spence. We appreciate it.

COUNCIL OF CANADIANS, CHATHAM-KENT CHAPTER

The Vice-Chair: Is the Council of Canadians representative here? If you could please introduce yourself, and you have 10 minutes to use as you please. Welcome.

Mr Victor Knight: Thank you, Mr Chairman, for the opportunity of 10 minutes to address an issue which can have catastrophic effects on the province of Ontario.

I am the present temporary chairman of the Council of Canadians, Chatham-Kent chapter, and a former retired teacher of the mentally challenged, as John Hodson, professor emeritus of Waterloo University, liked to introduce me when we were speaking on matters of economics.

Privatization: Who Benefits, Who Pays? Each of you on the committee has a copy of this.

In the summer of 1995, the then-Premier, Mike Harris, announced that Ontario Hydro would be privatized. The reason given was that it was in the financial interests of the people to privatize Ontario Hydro in order to save the public money. Subsequent to his announcement, the Ontario government has proceeded with this policy, the results of which you are familiar with.

It is apparent from steps which have been undertaken and statements made that not a single member of the provincial Legislature understands the differences between a publicly and privately owned corporation, the differences between publicly and privately created credit, their mandate under the Constitution Acts of 1867 and 1982, the Bank of Canada Act and the municipal financing act, Bill 143. The consequences of privatization are of such magnitude that I find it hard to believe that members of our governments are making decisions on which they are so ill-informed.

Private versus public ownership: the position of the government is that the private sector corporation can

provide services at a lesser cost to the public than a publicly owned corporation. But comparison of the costs of a publicly owned corporation and a privately owned corporation providing exactly the same services may prove revealing.

Since we are talking about electricity, imagine that the government has decided to build two identical generating plants, one to be publicly owned and the other to be privately owned. Being identical in all respects other than ownership—ownership—the tendered cost of the plants being \$100 million, financed at 8% over 25 years, the cost to the public of the publicly owned generator is \$228 million in round numbers. For the privately owned generator, the public pays \$228 million in round numbers. It is obvious from the chart that the total cost to the public through their utility rates for both the publicly owned and privately owned generator is exactly the same: \$228 million.

There are, however, differences that few politicians apparently are aware of. In the case of the publicly owned corporation, the public, through its utility rates, paid the total cost of \$228 million and retained ownership of the asset. Once paid for, the public no longer has to continue to pay for the asset they own. In the case of the privately owned corporation, the public, through their utility rates, paid exactly the same amount—\$228 million—yet they do not own it. The public has bought and paid for the asset of the private owners. The private owners in fact have got the asset for free.

In the case of the publicly owned asset, the public no longer has to make payments of principal and interest after they've paid the \$228 million. In the case of the privately owned asset, not only did the public buy the generator for the private owners but, most importantly, they must continue to pay what amounts to payments of interest and principal forever. The public is thus indentured to pay in perpetuity to the private owners. The privatization of Ontario Hydro will mean that my children and my grandchildren and your children and your grandchildren will continue to pay forever for the debt of Ontario Hydro.

Private versus public credit: the public has for the last 15 to 20 years been bombarded by the press and politicians that we can no longer afford the level of services we enjoy, that the country is so far in debt that the IMF will move in if we don't get our house in order. It would bode well for the public, and might prove invigorating to politicians, to see if there's not something fundamentally wrong with their understanding of what we loosely refer to as "money."

Assuming that, having risen to the position of public figures, you understand that banks do not earn money per se but create credit, we can refer back to the example of the identical generating plants. There are basically two sources of credit: (a) the private banking sector, primarily chartered banks; and (b) the public banking sector consisting of the Bank of Canada and the Province of Ontario Savings Office.

Let us imagine that one of the generators is financed by the private sector and the other financed by the public

sector. Plant A, the cost being \$100 million, is a publicly owned institution. That's their source of financing. It's paid for through the public utility rates. The total interest charged is \$128 million. The total cost to the public is \$228 million. Plant B, privately owned, is paid for through public utility rates. It pays exactly the same amount of interest and has a total cost of \$228 million.

In both cases, the public at first glance pays in their utility rates exactly the same amount of \$228 million. There are, however, profound differences between the cases. In the case of plant A, where the financial institution is owned by the public, the government in trust, the interest on the credit—\$128 million—is paid to the government acting as trustee for the public. The public then in fact receives back the interest as a dividend. This reduces the cost of plant A to \$100 million. Further, as the capital was borrowed from a publicly owned institution, the public, government as trustee again, receives the capital back. The cost to the public of plant A is now zero. If plant A is publicly owned, the public also retains ownership of the asset. The actual cost to the public of generator plant A is zero dollars.

In the case of plant B, where the financial institution is owned by the private sector, the consequences are profoundly different. Since the institution financing plant B is privately owned, the interest flows to the shareholders of the private banks. In this case, \$128 million in interest is the cost to the public. Further, since the original capital of \$100 million was created by the private bank, the \$100-million original capital cost is a cost to the public of \$100 million. The total cost of the privately financed generating plant to the public is now \$228 million.

It is critical to understand that in both cases, the public paid exactly the same amount of money through their utility rates, yet in one case they got all their costs back and in the other case they got none of their costs back. If plant B were owned by the private sector, the public would be committed to paying for the asset in perpetuity. Ownership determines cost to the public. It is mathematically impossible for the private sector to provide a service at a lesser cost than the public sector.

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Almost anyone of modest intelligence can, at the very least, appreciate that paying for something in perpetuity is more expensive than a defined payment period. Few, I think, amongst you would be willing to make payments on your car forever. Fewer, I think, would be willing to make mortgage payments on your homes forever. Politicians—you—have a fiduciary responsibility to the people who elect them. This is the fundamental principle of democratic government. The privatization of any part of Ontario Hydro or, for that matter, any public trust, is a gross violation of public trust.

Public versus private ownership: private ownership means payments forever of what amounts to principal and interest and profit. Public ownership means a limited number of payments of principal and interest until the debt is amortized. Private ownership means the public

pays the principal and interest on the capital debt for the private owners. In effect, the private owners get the asset for free or at no cost. Public ownership means the public pays the principal and interest but retains ownership of the asset. Thus, as pointed out in one and two above, there are not payments in perpetuity.

Private ownership, if it were to fall into non-resident hands, means that under NAFTA, the Ontario Energy Board has no power to regulate supply or cost. Public ownership means that the Ontario Energy Board has the power to regulate supply and cost. Private ownership in non-resident hands means that neither the federal, provincial nor municipal government has the power to impose environmental regulations; eg Ethyl Corp. Public ownership means the federal, provincial and municipal governments can enforce environmental regulations.

The Vice-Chair: Mr Knight, if you could conclude soon. We've gone over your time a little bit.

Mr Knight: OK. I just want to make one point. I think it's worth taking the extra time, since it's 10 minutes and I've been working on this for at least 10 or 15 years.

The net cost difference to the people of the province of Ontario, based on \$38 billion at 10%, amortized over 25 years, is \$76 billion. That is, the privatization of Ontario Hydro will cost the public \$76 billion more if it is privatized and, further, after it's paid for, the public will continue to pay for it over and over again. I'm sure you're capable of reading. I point out what the cost would be on the return on equity. At 10%, the cost to the people of Ontario is \$289 billion over the next 25 years. That's \$361 billion that's proposed by Mr Thompson, chairman of the Toronto-Dominion Bank.

If you take a look at some of the information that's enclosed in your package, you will see some articles that I've written as far back as 1975. I suggest you read them because they point out very concisely what has happened.

For those of you who don't think the legislation exists, here's a copy of the bill. I asked my member of Parliament to provide me with a copy of the bill, which he did. I doubt that one of you sitting around this table even knows that there was such an act.

The Vice-Chair: Thank you very much, Mr Knight. Your submission will go on the official record as well—the complete submission.

Mr Knight: I hope it does. I hope you do something with it.

The Vice-Chair: Thank you very much for taking the time to come in today.

INTERNATIONAL BROTHERHOOD OF ELECTRICAL WORKERS, LOCAL 636

The Vice-Chair: The representative from the International Brotherhood of Electrical Workers, local 636, if you could please introduce yourself. You have 10 minutes for your presentation.

Mr Patrick Vlanich: Good morning. I'm Patrick Vlanich and I'm the education officer for local union 636 of the IBEW. On behalf of local union 636 and our 3,600

members, I would like to thank you for the opportunity to be here before you today.

Ours is a diversified organization that has earned the representation rights for bargaining units in both the public and private sectors across Ontario. Over our 80-year history, we have expanded our jurisdiction into such areas as health care and manufacturing but the majority of our members continue to work in the utility industry. It is important to remember that these men and women are also voters and consumers of electricity. Like most of their fellow citizens, they believe in public power and fully support the efforts to protect this invaluable asset.

We can think of no better cause to rally behind than that of preserving our power grid. In earlier submissions, the IBEW made clear its opposition to the radical changes introduced in the electrical industry by this government. Our position remains unaltered.

This government would like us to think that it has listened to at least some of the concerns raised during the consultations held prior to the drafting of this bill. Unfortunately, their decision to abandon the Hydro One IPO was probably motivated more by an instinct for political survival than a commitment to the common good. This is further evidenced by the government's appeal of the court decision by Justice Arthur Gans that blocked the proposed sale of Hydro One. Regardless of the outcome of such proceedings, through Bill 58, this government has legislated itself the authority to override a ruling that was not to their liking. Such action is proof positive of the wisdom of Shakespeare, who wrote, "Power corrupts; absolute power corrupts absolutely."

It was the Walkerton tragedy that first alerted the people of Ontario to the importance of drinking water. Prior to that horrific event, many simply took this precious and essential resource for granted. Today, not only across our province but also from coast to coast, Canadians have a renewed appreciation for water quality and a greater respect for those who are responsible for maintaining the integrity of our treatment facilities.

For Ontarians, similar alarms should have been sounded with the passage of the Electricity Act in 1998, which dismantled Ontario Hydro and forever altered the electricity industry in our province. However, it was not until the market opened to competition in May of this year that ratepayers began to understand the magnitude of the changes introduced. Recognizing that the reliable and affordable power that had been such an integral part of our province's growth and development was now in jeopardy, a grassroots campaign began to keep the power system in the hands of those who had built it. We remain committed to this pursuit.

At the local level, Ontarians have already shown their interest in maintaining ownership and control of their electrical systems. In turn, municipal politicians have listened to their constituents, as evidenced by the large number of local distribution companies, or LDCs, that have not been sold to either Hydro One or private investors. In fact, more than 24 municipalities, representing nearly five million of our fellow citizens, have already

passed resolutions urging this government to rethink its plans for privatization. With such broad-based support, this campaign can no longer be dismissed as merely that of disgruntled unions, environmentalists and social activists.

Unlike Ontario Hydro, most of the former MEUs, or municipal electrical utilities, operated with balanced or surplus budgets. They also played an important role in their communities by providing an economic advantage to business and industry, and service reliability was maintained for all consumers. With this in mind, we suggest that consideration be given to allowing municipalities to purchase the government-owned assets associated with their publicly owned distribution systems. Not only would this assist in paying down the debt of both Ontario Power Generation and Hydro One but it would also ensure that these assets remained in public hands. In order to succeed, this model would further require that LDCs operate as publicly owned, not-for-profit corporations.

Access to affordable power in Ontario is a right and cannot be made a privilege. Those who will feel the greatest impact of this legislation are those who can least afford it: seniors, those on fixed incomes and the impoverished. Many of them will face yet another financial dilemma that requires them to choose between basic necessities, such as food and shelter, and electricity. Industrial leaders and business owners alike may also find themselves having to shift production schedules in order to afford to run the businesses they have.

Look around us and it becomes evident how much we have come to rely on electricity in our daily lives. For industry, commercial operations, hospitals, schools, business offices and residences, electricity is truly the lifeblood of our society. Anyone who questions how essential this service is need only recall the images of the ice storm that hit eastern Ontario and Quebec in 1998. That act of nature could not be controlled. We must not now surrender control of the electrical industry to other forces that may wreak even greater havoc by their actions.

In California, deregulation allowed market generators to withhold energy supplies at their whim. This often resulted in rolling blackouts across the state. We simply cannot allow our province to be held hostage by private power brokers who place profit above people.

1000

There can be no denying that the escalating debt amassed by the former Ontario Hydro had to be brought under control. The government has repeatedly been quoted as saying that this was the reason for restructuring the electrical industry. From our perspective, relinquishing public ownership and selling off public assets is certainly not the way to deal with such a problem. This fire-sale approach to divestment certainly does not reflect a sound and responsible business practice. In the end, the quick infusion of cash will do little to offset the debt and is certainly not worth the permanent loss of this very precious public asset.

Admittedly, my training, background and experience do not qualify me as a financial expert. I will leave the analysis of income statements and balance sheets to those more scholarly in this discipline. However, it would appear that the business practices currently being exhibited by Hydro One are not consistent with a corporation in need of liquidation. If investors from the private sector are clamouring at the door to take over this operation, how troubled is it really and why can't the current owners—the citizens of Ontario—be given an opportunity to turn things around?

The only reason we can see is this: this government wants to convince the public that Hydro One and OPG are no longer viable and thus there is no alternative but to sell them. Once the dirty deal is done, the money will likely be used to balance their budget or finance tax cuts for the rich, in much the same way that most municipalities responded when their local utilities were wrestled from public control.

At first blush, this bill appears to offer a positive response to the concerns raised by the public on this most controversial venture. The lofty goals for Hydro One were made clear by Minister Stockwell, and Premier Eves has outlined the objectives of the legislation. Closer scrutiny of the legislation leads us to conclude that this government has failed to satisfy any of the principal objectives upon which it was supposedly founded.

The good news is that this bill has not yet been passed and there is still time to defeat it. The bad news is that the market has already been opened to competition, the government's scheme requires Ontario Power Generation to sell off 65% of its generating stations to private energy companies, and plans are already afoot to increase transmission capacity and obviously exports of hydro to the United States.

The ugly reality is that this bill masks the true intention and desire of this government, which are to privatize the electrical industry. If this were not their real aim, why would this legislation even be introduced and why would they be proceeding with such zeal in their current court appeal?

This government has indicated that it intends to retain a majority interest in Hydro One, at least for now. However, if this legislation is passed they will be free to acquire, hold, dispose of and otherwise deal with securities, assets, liabilities, rights, obligations, revenues and income or debt obligations of, or any other issues related to, Hydro One and its subsidiaries. I don't know about anybody here, but that certainly doesn't give me a great deal of confidence that there is any long-term commitment to public power in Ontario. The people of this province will not be fooled by this wolf in sheep's clothing.

Similar attempts to restructure industries such as the electrical one have been made by governments around the world. In countries such as Britain, Australia and the United States, open-market competition had a devastating impact on the economy, the environment, consumers, and the workers who build, operate and continue to maintain

electrical systems. Apart from increased prices, these botched experiments resulted in significant reductions in system reliability, diminished quality in customer services and substantial staff reductions. As parents, we teach our children to learn from the mistakes of themselves and others. I ask this government why we can't do the same.

The government's ill-conceived notion of privatization is bad for the economy, the environment and the people of Ontario. Any sale of Hydro One, whether in whole or in part, constitutes a fundamental breach of public trust. This is not acceptable to local 636 or our members. Today this government may have the authority to take the power grid away from the people of Ontario and the public; however, I remind those elected and those who support such action that they should remember that it is the public who will ultimately have the power to take away their right to govern.

The questions of deregulation, privatization and market competition in the electrical industry are important to all of us regardless of our political stripe. We would like to believe that these hearings provide the people of Ontario with an opportunity to present meaningful and constructive ideas on how to answer such questions in a way that best serves the collective best interests of all communities. Unfortunately, with the passage of this bill expected prior to the Legislature adjourning next week, our faith in this process has been understandably shaken. Nevertheless, we offer the following alternatives for your consideration.

First of all, we ask that Bill 58 be scrapped and replaced with legislation that reflects a true commitment to build, support and protect a publicly owned, not-for-profit electrical system at both the provincial and municipal levels.

Next, we ask that you provide true protection for the consumer by closing the retail market. Hydro One has already sold its retail subsidiary out of concern for what it describes as "...the inherent risk in commodity price and volume risk associated with this business."

Next, we ask that restructuring of Hydro One occur to limit the number of subsidiaries that it operates and allow it to concentrate on its core business: construction, maintenance and operation of the transmission grid.

Next, we ask that the government withdraw its appeal of the April 19 court decision of Justice Arthur Gans.

Finally, we ask you to establish strict guidelines that require reinvestment in the electrical system infrastructure that can be enforced by the OEB.

Cancellation of the Hydro One IPO and the replacement of its board of directors were encouraging signs that the government may be recognizing the error of its ways. There remains much work to be done. We certainly hope that Premier Eves and Minister Stockwell are prepared to roll up their sleeves to get this job done.

Today Ontario sits at the crossroads, with one path leading us to a brighter tomorrow, while the other will take us back to a time most of us have never known.

Almost a century has passed since Sir Adam Beck pressed the switch that brought power to the people through the largest transmission system in Canada. Prior

to the establishment of what was then known as the Ontario Hydro Electric Power Commission, the Toronto Electric Light Company held a virtual monopoly on supplying electricity to cities across the province. This meant that they could charge customers whatever rate they wanted and determine who got power and how much they actually received. This begs the question as to why we would even consider returning to such a time. But that is precisely what will happen if this government proceeds with its intentions of putting public power into the hands of the Bay Street power brokers.

As he travelled along the campaign trail, our new Premier assured voters that his view of Ontario was different from his predecessor's. From his attitude and approach thus far, it would appear this is not the case. The dismantling of Ontario Hydro is an affront to all of us and is a fundamental breach of public trust that elected governments should be committed to honouring. Some call this initiative deregulation, others call it revitalization. We just describe it as a nightmare.

In the wake of the failures evidenced in California, no less than 22 states in the United States have now suspended their plans to deregulate and privatize the electrical industry. The time has now come for this government to decide whether it will flip the switch or pull the plug on public power. We can only hope and pray that we're not all shocked by your decision. I thank you for your time.

The Vice-Chair: Thank you very much for taking the time and effort to come in here today.

Our next presenter—

Mr Bisson: Chair, do we have time for a short question?

The Vice-Chair: No, we don't, I'm afraid. We went over by a number of minutes.

RENZO ZANCHETTA

The Vice-Chair: Is Renzo Zanchetta here? Welcome, Mr Zanchetta. You're free to use your 10 minutes as you please.

Mr Renzo Zanchetta: I have prepared a brief statement.

For some months now, the government of Ontario has been trying to convince the people in this province that their plan to deregulate and privatize the hydro system is a good idea. The government has spent millions of taxpayer dollars on advertising in this fruitless pursuit.

The process, at times appearing undemocratic, has forced this government to hold public hearings. The hearings, to some, are a sham, because it appears the government is not listening when citizens say, "We don't want our hydro system privatized."

The citizens in this province have said no to higher electricity rates and to supply problems that have befallen other jurisdictions which have ventured into the market. These citizens, unlike this government, are wise enough to know when they have a good thing. In polls and municipal resolutions, people across this province have said, "Keep Hydro public." They have told this govern-

ment to hold an election on this issue, because it has no mandate to sell Hydro One. Further to that end, the Superior Court in this province has ruled the government does not have the legal right to sell off the public asset. When the people and the courts agree, why does this government persist?

1010

In another show of democracy, the government now seeks consultation on Bill 58, a bill that will allow it to do what the people in this province do not want. Personally, I believe the government pursues this course at its own peril, which will be evident in the next election. It does, however, have time to do the right thing. I urge this government to abandon all intentions to privatize any portion of the system and to shelve the proposed legislation. I urge you to keep the system 100% publicly owned.

I further urge the government to consider how this valuable public asset could be better managed for the benefit of all people in Ontario. I suggest a new round of public consultations should be held to tackle the important issues of accountability, the debt, security of supply and Hydro's role in the environment. Public ownership means public responsibility. The citizens of Ontario are ready to participate in that process. Thank you.

The Vice-Chair: Thank you, Mr Zanchetta. That allows time for questions.

Mr Hoy: Thank you for taking the time to be here this morning and no doubt adjusting your schedule as the government has moved these hearings from place to place and time to time. We do appreciate you making the effort to be here.

You answered one of my questions completely. You want Hydro One to remain 100% public. That's unequivocal, so I appreciate that comment.

I want to let you know, during my time to question, and put on the record reference to a previous presentation. The budget bill repeals the Province of Ontario Savings Office Act and enacts schedule H, which contains a new act entitled the Province of Ontario Savings Office Privatization Act. So it appears the government is not done with privatization beyond Hydro One; there's more yet to come.

As well, in speaking to appreciating you being here, we're informed by the government that third reading of this particular bill we're talking about today will be held on Thursday with one hour of debate. We'll do our very best to ensure the government understands your position. Thank you for being here.

Ms Di Cocco: You talk a lot about transparency in the context of real public hearings to really hear what the people of Ontario are saying. One of the things that's concerned me about the whole process of deregulation/privatization is management. It's about management, not necessarily privatization. One of the things that concerns me is what I consider the cloak of secrecy that has been blanketed on to electricity generation and the breakup of the power systems. Can you address that as a citizen?

I find it unconscionable that we have excluded—and it's in this current act as well. "The powers of the Market

Surveillance Panel are expanded. Certain records of the panel and the Independent Electricity Market Operator relating to activity in the IMO-administered markets or market participants will be protected from disclosure under the Freedom of Information and Protection of Privacy Act." The privacy commissioner has spoken on this, saying the public will be excluded from knowing a lot of the things that are happening in that. Can you give me a comment as a citizen about a publicly owned asset that has been, since 1998, away from the purview of the public's right to know?

Mr Zanchetta: It is incredible that the government would set up a mechanism that would allow the public to be ripped off. A deregulated market, as we understand it, as we've seen in California, is rife for manipulation. To allow that to happen, and then to put in place a mechanism to deny people that information, speaks of corruption and collusion.

Mr Bisson: In last week's budget, there was a line item that said the government, by way of sale of assets or rental of property, is basically counting on \$2.4 billion to shore up its spending in this year's budget. Part of that we know was from the partial sale of Hydro One. Do you think it's wise that a government budgets its spending on sale of assets?

Mr Zanchetta: Well, once you've sold all your assets, what do you do for a second act? It's very difficult following this in discussion because ostensibly the system was supposed to be sold to pay for the debt. Now it's being sold to balance the budget. What is the point in all this? I think the government has clearly lost its way on this because it has changed its position, it has flip-flopped and the numbers just keep changing. I'm sure there are other factors involved, like who really wants to buy this and who benefits, and that keeps changing with the mood of the people, I hope. I really hope it is the citizens of this province who are making these fluctuations happen.

Mr Frank Mazzilli (London-Fanshawe): Thank you very much for presenting your position, sir. Clearly, what I've heard from most people here is that most object to any form of a sale. But I just want to make it clear for the record that the only person in the Legislature who has been opposed to 100% ownership has been Howard Hampton. He's been consistent from day one, as Mr Bisson knows. Certainly Mr McGuinty, right up to December 12, has suggested that he would support some form of privatization. I just want that clearly on the record, sir, and I appreciate your presentation.

The Vice-Chair: Thank you very much for coming in today and taking the time to make your presentation.

1020

PAUL CLARKE

The Vice-Chair: Is Paul Clarke here? Welcome, Mr Clarke. You have 10 minutes to make your presentation.

Mr Paul Clarke: Thanks for letting me come today. I have about 14 points here. A lot of them will have already been covered.

I think we have to give the Harris government some credit for at least trying to do something about the terrible Hydro mess. I can imagine that when they started thinking about this about six years ago, they had no idea of the harsh realities of NAFTA and what it would do to privatization and they thought they could just go ahead clearly with privatization. But now the harsh realities are obvious, the latest insult under NAFTA being the United Parcel Service suing the Canadian government for \$250 million just because they think that Canada Post is somewhat subsidized by the government. We have to realize that NAFTA means the United States calls the shots.

These two items have been mentioned before, but I must clarify my position just to make sure you know. The first item is of course that once you go private, then prices are made in the States and we have no more control. We lose that sovereignty. The second item, outside of prices, is the proportion you have to export to the States. Once we get in the position, say, of exporting half our power to the States, we have to do that forever under NAFTA. That's a harsh reality and, for some reason, the government will not face up to that harsh reality.

I got a letter only yesterday from Mr Stockwell. He tells me, "With respect to your concerns regarding electrical exports, it's important to understand that the North American free trade agreement already binds Canada, the US and Mexico together in energy matters. We have been importing and exporting electricity under this framework for years. With or without NAFTA, cross-border flows of electricity are a fact." That of course is very true. The government of Quebec exports huge amounts of electricity to the States with no worry, and the reason there is no worry is that it is a government agency. What our government will not face is that once you switch from a government agency to a private agency, then NAFTA kicks in and we are no longer in control of what happens.

What I also worry about is that it is the beginning of foreign control of hydro. Professor Myron Gordon of the University of Toronto and John Wilson, in a story in the *Star* on May 18, say, "These matters are the first steps in complete foreign ownership and control of Ontario's energy market. If it goes ahead, rates will rise to US levels, jobs will be lost, enormous profits will flow abroad." He is a very well qualified man to speak to this particular matter. You say, "Don't worry about foreign ownership; that's just off in the clouds," but foreign ownership virtually has already occurred.

The Ontario Power Generation people leased the Bruce power plant—the Bruce power plant is worth at least \$10 billion—to British Energy. British Energy is now in control of the generation aspect of it. This same very learned professor points out that we would have been better to have sold off the Bruce generating plant for \$1, because under the crazy terms of this lease, at the end of it, Ontario has to decommission Bruce and look after the spent fuel rods. Nobody even knows how they're going to do it. It will be a huge cost and we're on the ticket for that. So we cannot say that foreign control

is out of the question. There is a case where we already have foreign control of a huge and very profitable generating station.

The Bruce station brings in \$500 million a year and when Bruce A also gets on stream, there will be another \$500 million a year. I could be wrong here, but most of that goes to British Energy, which has the lease. That \$1 billion a year could be going to pay down the Hydro debt if it had been handled differently.

What we are begging you to do is not sell Hydro One and get into the same situation as we have already with its sister company, Ontario Power Generation.

We have a problem with the brownout provisions. Several experts predict we might have brownouts even this year until our nuclear plants get back on stream. The question is, if under NAFTA we already have to export half our power, how do we handle a brownout and provide our own people with power if we have to send this amount to the States? And don't doubt it, we have to do it. The States just rule.

We're talking about privatization as if it was some panacea, and I can assure you it's not. Recently we have seen that private company CEOs are only interested in glory, growth and greed. You have Monty at Bell, you have Nortel, you have hundreds of other CEOs who have taken their private companies down a terrible path and lost billions of dollars. Maybe we should give it to them, because they lost billions of dollars just overnight. It took Hydro 30 years. Actually, it took Hydro a lifetime to lose billions of dollars. So maybe private people could do it better than Hydro does it.

But we must not think that the public is the answer. A few years ago when the Ontario government decided to sell off Hydro, they told Hydro to start acting like a public company so that it would be more attractive to purchasers. And indeed, Hydro did. They fired hundreds of employees and then they jacked their own management rates up to millions of dollars and so on, but they did become much more efficient. As you know, they made \$641 million in 2000. There's no reason why the Ontario government cannot continue to operate Hydro efficiently. Admittedly, no government has yet, but it can be done and it must be done. We can't let it go private.

Philosophically, the privatization of a public monopoly is a very badly flawed concept. No matter how well-regulated the private monopoly would be, new accounting tricks come to light every day—for instance, Enron and so on. The people of Ontario want a publicly owned monopoly. We feel it's our heritage. We're kind of silly about that but we still want it. You've heard about California: "We don't need to worry about it." But my concern about monopolies being privatized is that it invites the giant global companies to move in and gobble stuff up. Essentially, British Energy has gobbled up the Bruce generating station. It's a lease but it's a complicated lease and it might as well have been given to them. So a global company has moved in already and gobbled up part of our precious assets.

Departing from Hydro for a moment, privatization—and you'll be having more groups like this in the near

future on water and sewage—is already proving to be a real disaster. Huge European companies, mainly French, like Vivendi and Suez, will go into places like Brazil and bribe the officials to let them go public. When this happens, disaster follows. The poor people suffer tremendously. In some of those cases, at tremendous expense, the governments have managed to buy the monopoly back from these huge companies, but very few.

Anybody talking about privatization should read Maude Barlow's book called *Blue Gold*. It should be an absolute necessity for everybody to read if you're talking privatization.

Of course we all think Hydro rates will go up. I think the greed of CEOs, and the greed of shareholders clamouring for more, means the rates have to go up. If you want to see the greed of chief corporate officers, look at the April 23 *Globe and Mail* which reports the millions they are getting. That has to be paid for somewhere and it would have to come from our Ontario payments.

1030

We have the notes that so far market deregulation has done very well and I think the rates have come down a little bit, but this is a completely different subject from the sale of Hydro One. It's got nothing to do with Hydro One and we mustn't let the government confuse us—which they're trying to do—by saying that this is great. Look, the government keeps saying that competition is great, and I'm quoting again from Stockwell's letter to me of only yesterday. I think it's wonderful that he took the time to write to me but, again, he says, "Competition and adequate supply are the best protection against unwarranted increases in the price of electricity." That's absolutely true but it's got nothing to do with the sale of Hydro One.

The Vice-Chair: If you can conclude, that will be great.

Mr Clarke: Do you want me to stop?

The Vice-Chair: If you can wrap up soon, that would be great. Thanks.

Mr Clarke: OK, but I would like to go through these in a hurry. I spent many hours on this.

The Vice-Chair: Go ahead.

Mr Clarke: I admit I'm over 80 years old. I should be in my rocking chair but I'm really concerned about this and so I did try to come out—

The Vice-Chair: Continue, please.

Mr Clarke: I want to mention government promises. One of the saddest things about the recent budget is that it proves the government never had any intention of keeping its promise to take all the money from the sale of Hydro One to pay down Hydro's debt. As a matter of fact, on May 18, Stockwell said, "Every cent that is raised from Hydro One will go directly to the debt of the old Ontario Hydro." We see now that was never meant to be so and we have to assume that any promise that we won't sell off the rest of Hydro will also go by the boards. So we have to oppose the sale of any kind of hydro.

This gentleman asked about the pillaging of our provincial assets, and please let me mention this. The govern-

ment has got to stop selling off the precious assets which belong to us. It's agreed that Highway 407 was given away for half its value and it made corporations like SNC very rich. What you don't hear much about is that the Bruce generating station which I've been talking about was worth \$10 billion and was given away for essentially nothing. In the sale of Hydro One, it's worth billions. The hydro rights-of-way alone would be worth billions.

Mr Gilchrist: They're not being sold. The act specifically says they're staying with the government.

Mr Clarke: It's going to stay with the government?

Mr Gilchrist: That's what the act says. You know, reading the act would be a good start.

Mr Clarke: Thank God for that.

Mr Gilchrist: We're well over time. That's my opinion; you're entitled to yours.

Mr Clarke: The loss of security is also important. Control of environmental practices and pollution will be diminished and as we send more money to the States, more coal-fired generation will come on and we'll get more pollution.

It will also dilute how we react in emergencies. Everybody agrees a fabulous job was done in the ice storm. I don't think a private company could do quite as well as the government, pulling that stake.

I guess you want me to quit, so I will quit, but I have left these points with the secretary.

The Vice-Chair: Thanks very much for coming in and taking the time to make the presentation today.

LARRY CARNEY

The Vice-Chair: The next presenter is Mr Larry Carney. Mr Carney, you have 10 minutes to make your presentation. You can use it all or you can allow time for questions, as suits you.

Mr Larry Carney: I'd like to begin by thanking you for the opportunity to give my views today.

First of all, I have disagreed all along with the direction the government is taking by trying to sell Hydro One. I think the plan was based more on an erroneous business philosophy rather than on sound economic policies.

The basic argument that private corporations can do things more responsibly, better and more cheaply than public corporations has been exploded recently in the media by a number of events. I think the previous speaker referred to them quite well, actually, from Enron and the situation in California with their power, on up to our own situation here with the problems with water regulation and checking the quality of water in Ontario. I think we too quickly tend to undervalue what we have and basically we try to sell the crown jewels at bargain basement prices.

As to Bill 58—I managed to get a copy of it and waded through it; I have to admit I'm really not sure what an awful lot of that was all about in there, but I did struggle my way through it—I think it's just another attempt to somehow rewrite the old Electricity Act of

1998 in such a way as to get around Justice Gans's decision of April 19. I still think the government has no authority to try to privatize Hydro One in any way. The judge's decision was basically against privatization. I say and feel that the same principle holds true whether we're talking about privatizing halfway with 49% or whether we're talking about complete privatization.

Premier Eves has stated that he wants to consult the people of Ontario and follow their will. I presume this hearing is part of this consultation process. I have to admit that I feel a certain skepticism, even as I speak here today, just judging from past experience.

As Renzo mentioned before, I found the previous hearings to be shams. I read about one of the hearings in the Windsor Star. I had a friend who somehow found out about it the day before and called in to give his views, and the day before it came out in the paper, he was told that the list was already filled up. I had to dig every which way to try and find out where the hearings were in Windsor, what time and the situation, and see if I would at least be free to be present at them. I found that out. They seemed to be set up with a few people who were all giving their approval and giving their views in favour of the privatization of things.

Today, for this particular hearing, I was informed only two days ago that I was accepted. I called about a week or so before, wondering about having this, coming from Windsor to Chatham today for this hearing. I think somebody had told me on the phone that I would have been told the previous Friday or so. I had a meeting this morning that I had to back out of, because the time was changed from this afternoon to this morning as well. So there doesn't seem to be a wholehearted attempt to get the participation of the people and get their views.

The basic tenet that I'm getting at is that Hydro One belongs completely to us, the people of Ontario. On such a monumental issue, we need to make the decision, not the politicians. The polls have shown repeatedly that the vast majority of people are opposed to privatization and are in favour of some kind of an election on the matter to make a final decision. I believe the majority of the people of Ontario still oppose selling even 49%—or any per cent—to any kind of private owners.

In the past couple of years, the government has tried to hide many of the facts involved in this issue. On May 14, the Globe and Mail exposed a study by Cambridge Energy Research Associates that warned of the dangers of any kind of privatization. The government, I believe, commissioned this study but fought for 18 months to keep the Globe and Mail from getting the true facts and getting the story out. Basically, the idea was that prices can soar to hundreds of times the normal level in a more competitive market.

When you have private stockholders, I think the temptation is too great to make money for the stockholders. They will want to sell power to the US for higher prices. As the previous speaker mentioned, with NAFTA in place, I think they will no longer be able to keep prices lower for us, the citizens of Ontario.

In conclusion, I believe that selling even 49% ownership of Hydro One is still a form of privatization. The government has no mandate to do so, and an election will be needed to determine the true will of the people. Thank you.

1040

The Vice-Chair: That allows time for a short question from each of the three parties. We'll start with the official opposition.

Ms Di Cocco: First of all, thank you for your presentation. I know it is difficult when things are changed so quickly, and the notification sometimes is not enough. I understand that.

There are a number of things that came out of your presentation. Again, the whole notion that we have for the last few years been fed, a simplistic notion that privatization is good and public is bad, is a very simplistic way to look at things. And yes, Justice Gans said you can't privatize this and that the government has no mandate. That's clear.

This bill is up for third reading. It has passed second reading and it's up for third reading on Thursday. There is a sense of *fait accompli*, that this bill is going to enable the government to do as it sees fit. It can say that the IPO is off the table and all of that, but section 50 in the bill allows for the crown to dispose of securities. I can read it, but it's section 50.1 that allows the government to do those things.

Another point that has been made that I think is extremely important is that, yes, the public interest is what this is all about. It is not about the shareholder, whom privatization tends to take care of. What's important in the whole context of the positions taken by the various parties is that Hydro One should not be sold off.

As you know, in Sarnia, TransAlta is coming on-line and there is green power already in the generation side. In the context of competition, of allowing the private in with the public—because that's what's happening now—do you have any thoughts about that at the generation side in the context of, as I said, the cogeneration that's in Sarnia that's in with the public?

Mr Carney: I'm not sure if this is relevant to your question or not, but one of my big concerns is that as you get into other generating companies being allowed, first of all, because people are looking for the cheapest kind of electricity you can find, the coal generating ones and things like that, it seems to me that the next step is always the move for the environment and to make it that much worse, that you have cut down your environmental standards, which seems to be happening all over North America. We in Windsor feel it especially. You can probably hear it in my voice here today. The air is so bad already, and I don't think people take these environmental things seriously enough.

Mr Bisson: I have a couple of quick questions. Let me just get to them.

The Vice-Chair: One.

Mr Bisson: This is a public utility. I've heard you and others say the government doesn't have a mandate to sell

this public utility. Considering that this bill, like every other bill in the Legislature, but this one in particular, has been time-allocated, with three days of debate at second reading and basically time-allocated to committee, hardly any committee hearings—10 minutes is what you get, and you're lucky you got that with this government, and we've virtually got one hour of debate at third reading—do you think that's a democratic process?

Mr Carney: It doesn't sound very democratic to me, no. I agree with you 100%.

Mr Bisson: The other thing is on the opening of the market. It was raised by the man before, Mr Clarke, and you have raised it again. We've moved now to where we have an open market where basically the price is set out not by the old Ontario Hydro, but now by the new process that they've set up. We've been in it for about a month. They've been fairly well behaved because they know the public is looking at them, and the worst thing to happen to the government at this point is if that opening of the market was really to have acted like it would normally do under a private system.

Are you confident in the longer run, once we get out of this legislation, once the government has moved to 49% sale of Hydro One, that the market will really stay the way it is, or do you fear that we'll see what happened in California, Pennsylvania and other places?

Mr Carney: I basically have those same fears. I have to admit I don't understand the whole process well enough to see how it would happen, but I have grave fears that you'd start getting repeats of the type of thing you had out there. Somehow or other I think that 49% can be a pretty powerful 49% in the overall control of things.

Mr Bisson: Do I have time for one more?

The Vice-Chair: No; it's time for the government. Mr McDonald.

Mr AL McDonald (Nipissing): We've seen that the federal government really didn't have a mandate, but they privatized Air Canada and they sold off Petro-Canada as well. It's very clear that this government wants to sell off 49% of Hydro. Mr McGuinty, back in December, said that he was for privatizing Hydro as well.

From what I'm hearing today from everybody here, you're supporting Mr Hampton's view, because he's the only leader who stated right from day one that he was against privatization of Hydro. What I'm hearing today is that you agree with Mr Hampton's position.

Mr Carney: Basically, from what I've read of his positions and what I've heard of them, I think I would be in agreement with him, yes.

Mr McDonald: The NDP is the only party that stated right from day one that they are against privatization. I think that's what we're hearing today, that they agree with Mr Hampton.

Interjections.

The Vice-Chair: Thank you very much for making your presentation today. We appreciate it.

HAROLD KOEHLER

The Vice-Chair: Is Harold Koehler here? Welcome, Mr Koehler. You have 10 minutes to make your presentation.

Mr Bisson: Is that all the presenters we have today?

The Vice-Chair: Yes. Go ahead, Mr Koehler.

Mr Harold Koehler: Thank you very much, Chairman Miller, members of the standing committee on general government and ladies and gentlemen.

Let me say at the outset that I'm unalterably opposed to the selling of Hydro One. It is a system that is already owned by the people of Ontario and it is ludicrous to try to sell them something they already own.

Government advertising repeatedly states that I have a choice in how I buy my electricity. My choice is to buy from a publicly owned utility that not only includes the power but the transmission lines that bring it from the generating stations. I expect the government to respect my choice.

I find Bill 58 to be exceedingly complex. Its very complexity alone makes Ontarians suspicious, and it should be scrapped.

The new Ontario Premier, Mr Ernie Eves, says, "We might keep Hydro One." I sincerely hope he means all of it, not sell 40% now and the rest at some opportune time.

The Conservative government's sneaky plan to sell off 40% of Hydro One this summer must be stopped. The rushed and secret sale is the government's attempt to duck public scrutiny and the wrath of the 70% of Ontarians who oppose the sale of Ontario's transmission grid. The government does not have a mandate to sell Hydro One. An election should be called to decide the future of public power transmission in the province. There should be a freeze on secret sales until the people have spoken.

The government is trading away a crucial economic asset to balance their budget. That's no way to run things, and it will cost everyone in the long run.

More than 20 municipalities, including Toronto, Kingston, Windsor, Niagara, St Catharines and Oshawa, representing nearly five million Ontario residents, have now endorsed a resolution calling on the province to stop hydro privatization and deregulation.

If it is for sale, what is its value? As much as \$5.5 billion? How do you put a value on such a system? If it is sold, will the purchaser pay its real value to compensate for the revenue that it will generate or will it be a financial plum sold for a fraction of its worth?

1050

The sale of Hydro One is reminiscent of the government's ill-conceived sale of Highway 407, which drove tolls sky-high and removed the public's right to own the highway outright, toll-free, in the future. Privatizing the transmission assets will force hydro prices higher and threaten the system's reliability and, again, remove from citizens the right to own a power-at-cost system that has served them well.

The Premier said, "I don't believe it's in the best interests of the people of Ontario to have the transmission

and distribution corridor of the province in the hands of a foreign entity." I am told that that perhaps could bring additional revenue, but I don't believe that's in the best interests of the people. I do not believe that financial interests, whether in Ontario or Canada, really have an ethic that provides for our best interests, but I expect that our government will act in our best interests and stop the sale of Hydro One.

A recent Ontario Supreme Court decision that clearly says the province does not have the legal authority to sell Hydro One is a great victory for all the people of Ontario who are the rightful owners of a most valuable public asset. The judge is on the same page as the people of Ontario who are saying Hydro One is a public asset, and the people are ultimately the ones who should decide its fate. The recent introduction of Bill 58 is essentially devised to make an end run around the judge's decision. There are many reasons to respect the judge's wishes represented by his decision.

There is a widespread myth that privatization and corporatism is always good. The evidence of a world economy that has hundreds of millions of people living in poverty should be a warning. And we know that privatization and deregulation have been expanding for a decade. The regulations of the International Monetary Fund, the World Bank and the World Trade Organization have only made things worse, precipitating the collapse of the Indonesian and Argentinean economies, and now even Japan is threatened. Furthermore, the gap between rich and poor is increasing. I hope the government of Ontario pays attention to that experience and does not contribute to the growing malaise by selling Hydro One.

So most of us are wondering why on earth the Conservative government would take us down a path that threatens our economic and environmental well-being. The answer is simple: it's about money, and it's going to be coming out of our pockets. We expect you to act now to stop the sale of Hydro One before it's too late.

While the sale of generating stations may make some sense because there may be an opportunity in that sector for competition to exercise some control, the same is not true of the transmission corridors. They are essentially a monopoly because there can be no suggestion that transmission systems should be duplicated to make competition a factor. That is a reason that Ontario must retain control of Hydro One to make sure it is operated in the best interests of our people and industries.

Latest reports are that a transmission line is to be built under Lake Erie to make lucrative the sale of Ontario's power to the markets of Pennsylvania, Ohio, Michigan and Illinois, where rates are typically 50% higher than Ontario's. The result will be an inflation of the price of power, with a resultant penalty to the people of Ontario. More importantly, it will have a negative effect on the profitability of Ontario industries, resulting in a loss of jobs and the deterioration in the Ontario economy.

The Conservative government's sneaky plan to sell off 40% of Hydro One this summer must be stopped. The rushed and secret sale is the government's attempt to

duck public scrutiny and the wrath of the 70% of Ontarians who oppose the sale of Ontario's transmission grid. The government does not have a mandate to sell Hydro One. An election should be called to decide the future of public power transmission in the province. There should be a freeze on secret sales until the people have spoken.

The government is trading away a crucial economic asset to balance their budget. That's no way to run things and will cost everyone in the long run.

The operation of the transmission system is a particularly dangerous industry, with the hazard of electrocution and falls of workers required to do their jobs at high elevations. Private industry has poor safety records. To keep the workers safe, procedures, equipment and training must be provided. I would expect a public corporation to be more sensitive to these concerns.

Another reason for keeping Hydro One public is that private companies have a dismal record in labour relations, with few unions to protect the workers. That record is emphasized in this city by the disgusting situation precipitated by the Navistar International truck plant.

I call on your committee and the government to scrap the sale of Hydro One and bring in a system of accountable public power transmission. The first priority for such a public power system is to keep the utility subject to full public hearings and binding rulings by a public regulator, instead of leaving the rates only to provide for private profiting. I thank you for your time.

The Vice-Chair: Thank you very much. We'll take time for a question from each party, starting with the official opposition.

Ms Di Cocco: I noticed the government members are consistently not responding, in my view, to some of the presentations. The position of the Ontario Liberals is definitely not to sell Hydro One, period. That is the position. The actions, more importantly—

Mr Gilchrist: That's your most recent position.

Mr Mazzilli: What day?

Ms Di Cocco: No, no, the actions. I'm talking about action here, not rhetoric. Bill 58 is a duplicitous attempt at overturning the decision of a justice who said that the government did not have the authority to sell a public asset. In the context of the position of the sale of Hydro One—and it is a monopoly—there is no business case; the government has no mandate to sell it. What we heard today is definitely a strong collective voice saying no to the sale of Hydro One. The government talks about market discipline. I don't understand exactly what they mean by that and again their simplistic ideology.

Can you respond, if you could, to how important this whole notion of public ownership is—the public owns these assets—and whether or not this government, under any circumstances, should be selling off Hydro One, whether in part or with some of their schemes of what they call public-private partnerships, in any way, shape or form, in your opinion.

Mr Koehler: I think that Hydro One particularly should not be sold because there is no possibility that the guidelines and the responsibilities of competition can be

met because there is no competition possible in the operation of Hydro One. I think we've seen in the past the areas where competition has not been possible. For example, in Bell telephone, the profits and costs of Bell have gone unchecked for many years, despite that there is so-called regulation of the rates, but the regulation is done by governments, which in the past have had little responsibility to the people they claim to represent.

1100

Mr Bisson: First of all, I want to thank you and those who came today to present. Unfortunately, we don't have enough time to do justice to the hearings that we should, going across the province in order to talk to people. What I've seen here this morning is that the vast majority, as the polls indicate, think this is really a dumb idea, that we shouldn't be privatizing. So I want to first of all thank you.

I want to ask you the same question I asked someone else, and that is the issue of the price being set by the market. We have since May 1 had an open market in which the price is set by way of the market. There have been some spikes, there have been some hikes, but on average it's been pretty stable. This is while there's been a lot of public scrutiny on this whole debate. Do you have confidence, if we move to a 49% sale of Hydro down the road, when people aren't paying as much attention, that the way we set the price in fact will better serve you or serve you worse over the long run, as has been the case in California and others?

Mr Koehler: I think there's a difference in the sale of the generation, which is amenable to some form of competition, and the sale of Hydro One. If you wish to exercise your decision on the transmission company, you prefer to provide the transmission of the power from the generating station to your switchboard, who else are you going to buy from? Who else, I submit, is a possible supplier to enable competition to act and provide the restraint and the benefits that the mythology of private ownership supports?

Mr Mazzilli: I appreciate your coming in from London and I apologize for the inconvenience to you. We did put ads in the papers and on the parliamentary channel. It was well advertised. We had two people in London sign up to make presentations. So I appreciate you being here. I didn't want you inconvenienced, but you have been. You made it down and I appreciate hearing your views.

In relation to what you said on the generating side, we've heard different opinions on that today, obviously. Certainly in my age group we can remember the Kincardine area was very hard hit when Bruce was closed down. They were giving away homes, if you would, in the area. I agree with some of the presenters that there could have been other options looked at, but the reality is that is a vibrant community today. I think the people of Kincardine wanted someone to do something and I'm certainly happy that decisions were made to make that community vibrant. Would you agree with that at all?

Mr Koehler: First of all, I'd like to respond to my trip from London. I came in from London just as Frank Mazzilli came in from London this morning and I consider that a small price to pay, provided the government sits here and listens to the presentations that have been made and prevents the sale of Hydro One.

Mr Bisson: Have you convinced them?

Mr Gilchrist: We're not selling control of Hydro One.

The Vice-Chair: Order.

Mr Mazzilli: Mr Koehler has the floor.

Mr Koehler: With regard to the situation at Bruce, I have very mixed feelings on that contract. I haven't studied it in detail but I suggest that the situation that prevails at the generating station when the British consortium ends its rental agreement will leave Canada with hundreds of tonnes of spent fuel and the cost of its disposal and eventually the decommissioning of the station at Bruce, which may be 10 years in the future or 50 years in the future. But whenever it is it will be a gigantic cost that obviously will not be borne by the British company.

The Vice-Chair: Thank you very much for making your presentation and for making the trip in from London today.

Mr Koehler: Thanks for listening.

CHATHAM-KENT HYDRO

The Vice-Chair: Is there a representative from Chatham-Kent Hydro, Dave Kenney? Welcome, Mr Kenney.

Mr Dave Kenney: Thank you, Mr Chairman. I'd like to thank the committee for holding these hearings and giving me the opportunity to speak. My name is Dave Kenney and I'm the president of Chatham-Kent Hydro.

Chatham-Kent Hydro Ltd was incorporated on October 1, 2000, due to the requirements of Bill 35 and the Electricity Act, and consists of the electrical distribution assets of Chatham-Kent PUC. The company is a regulated subsidiary of Chatham-Kent Energy, while the other affiliate, Chatham-Kent Utility Services, is a non-regulated company and provides customer service and billing for both Chatham-Kent Hydro and Chatham-Kent PUC. The municipality of Chatham-Kent is the sole shareholder and is the community that was formed through the amalgamation of 22 municipalities within the boundaries of Kent county in 1998. Chatham-Kent Hydro is the electrical distribution company for the urban communities within Chatham-Kent, including the former municipalities of Blenheim, Bothwell, Chatham, Dresden, Eriau, Merlin, Ridgetown, Thamesville, Tilbury, Wallaceburg and Wheatley—11 in total.

There are approximately 50,000 electrical distribution customers located within the boundaries of the municipality of Chatham-Kent. The two distributors are Chatham-Kent Hydro, with 32,000 customers, and Hydro One, with 18,000. The Hydro One customers are represented by the same local elected council as the Chatham-Kent Hydro customers, but are not being provided the

same level of service that the local distribution company is providing. There is no longer any local Hydro One customer service or management staff located in Chatham-Kent, which causes a significant degree of frustration for the customers, local municipal council and their administration.

Hydro One assets are contiguous to Chatham-Kent's service territory. Currently, Hydro One's and Chatham-Kent Hydro's service vehicles drive through each other's service territories to service their customers. Customers are frustrated by having two service providers with different rates, service policies and response times, while at the same time being under the municipal control of the municipality of Chatham-Kent. Also, during storm-related power outages, the Hydro One customers cannot understand why the Chatham-Kent Hydro crews do not stop to restore their power, and they have to wait sometimes hours or days for power to be restored. Communication is also very difficult for these customers, as they are trying to relay their problem to a Hydro One operator located somewhere in the greater Toronto area. Quite often, they will call Chatham-Kent Hydro to see if there is anything we can do.

While each company's assets are embedded in each other's service territories, there are 28 wholesale metering points required to settle each company's wholesale power costs with the Independent Market Operator. These will result in approximately \$2.8 million over the next six years to upgrade these points to current market standards and will also require approximately \$250,000 in annual operating costs. If Chatham-Kent Hydro were the only distributor in the municipality of Chatham-Kent, approximately 50% of these points would not be required, thus reducing the rate impact on our customers.

The majority of the industry in Chatham-Kent are Chatham-Kent Hydro customers who find it frustrating with the process we are required to go through to demonstrate to Hydro One the need to improve the reliability of their distribution system to our area. We have been told on occasion by Hydro One that there are important issues to address in the greater Toronto area. Several of our customers, who employ hundreds of employees in Chatham-Kent, have indicated that the poor reliable supply from Hydro One may force them to relocate their operations to the USA.

Many of these issues would be resolved locally if Chatham-Kent owned the asset and could invest capital to improve supply to these customers who are critical to the economic stability of Chatham-Kent. We have received numerous requests from local industry to see if it would be possible for them to switch to become Chatham-Kent Hydro customers.

1110

Chatham-Kent Hydro is very involved in the local municipal strategic planning process and works closely with the economic development staff to promote investment and employment in Chatham-Kent. We are members of the local chambers of commerce, the home-builders associations and the Ontario Electrical League,

while Hydro One does not participate in any of these groups.

With the introduction of the Reliable Energy and Consumer Protection Act, Bill 58, there is an opportunity for the government to promote the rationalization of the distribution assets in Chatham-Kent by providing the opportunity for the transfer or purchase of Hydro One assets to Chatham-Kent Hydro.

We appreciate the government's position that the status quo is not acceptable, but it is time to stop the illegal growth pattern of Hydro One and it is time to reinvest in the Hydro One infrastructure for the long-term benefit of the people of Ontario. Continuing to operate two distributors in this municipality does not make sense, as there are duplication and reliability issues and costs the customers are unnecessarily required to bear.

In our review of the proposed amendments to the Electricity Act in Bill 58, we believe the alteration of ownership structure can include a transfer, purchase or lease-to-own arrangement of the distribution assets and that the minister can dispose of and otherwise deal with the assets. We trust that this interpretation is correct. We realize that this proposal would be a made-in-Chatham-Kent solution to rationalize the distribution sector while, at the same time, would provide the government with needed capital to reduce the stranded debt. The government has been promoting local accountability of other services and we believe that transferring the control of the distribution of electricity to local government is consistent with some other government initiatives.

We believe Hydro One should retain the transmission assets, as it is a natural monopoly for the benefit of the citizens of Ontario and needs to operate in a provincial, inter-provincial and international manner to remain robust and reliable.

A couple of points in closing: I would like to remind the government of the Macdonald white paper on restructuring Ontario Hydro and the Ontario electric industry. Chatham-Kent Hydro continues to support one of this report's recommendations of building shoulder-to-shoulder distribution companies. At present in Chatham-Kent, we have 11 service islands in a sea of Hydro One and, even operationally, this does not make sense. We would also like to applaud the government on the introduction of the energy consumers' bill of rights, as the concerns of our customers, which we share, are addressed in an appropriate manner.

Another final point I'd like to make is that, as one of the members indicated, Chatham-Kent Hydro is one of only two distributors in Ontario that did not maximize our rates to 9.88%. The unfortunate part of that is that the other 18,000 Hydro One customers who pay taxes in this community were not provided the same opportunity. Thank you.

The Vice-Chair: Thank you, Mr Kenney. We'll allow time for a question from each party, starting with the official opposition.

Mr Hoy: Thank you for your presentation this morning. Other than on the occasions that I might mention it, I

think it's probably the first time anyone has mentioned Merlin for the Hansard, so I'm really pleased at that.

Yes, there are some unique circumstances here in Chatham-Kent, perhaps brought about in the main by amalgamation, and I think we all understand that. Apparently at the time of amalgamation, there were some 26, I believe, committees looking at what would happen to various services etc here in the former county and city.

I took with note the communications problem of going to the greater Toronto area, as you mentioned, in service to Hydro One customers. I've always believed in getting services as close to local communities as can be had, so I appreciate your comments on that. Notwithstanding that this might be a made-in-Chatham-Kent solution, it might be a made-in-Chatham-Kent problem, too, going back to amalgamation time.

But I don't know whether to change it. I don't think the answer is changing the ownership of Hydro One to solve the problem of whether there's service here or whether the service comes from the greater Toronto area. I don't think you're saying that, either, because you say you believe that Hydro One should retain the transmission assets, as it is a natural monopoly.

So, yes, there are some concerns here that I take with great note and I appreciate all you've said today. But some of these problems I don't believe would be solved just because Hydro One was privatized, and I don't think you're saying that either.

Mr Kenney: No.

Mr Hoy: If you'd care to respond.

Mr Kenney: Sure. On the issue with calling Toronto etc, the closer the distribution company is to local ownership, in our opinion, the answers come a lot quicker, the response is a lot quicker. That was my point. Our view is local accountability. I feel our municipal council has the same view and they also find it frustrating.

Mr Bisson: I come from Timmins, a little bit north of here, where Hydro One is the only operator. We don't have any local PUCs in our area. Just an overall observation: in the past, prior to a lot of the restructuring we've seen at Hydro One, they were much more involved in our communities and did provide a fairly good service when you had outages. I think part of the problem we're having is the same as yours: Hydro One is not as effective as it was as an organization to respond to what's happening out there. I think part of it is restructuring.

The second part, I guess, is the question. As I understand it, as a result of amalgamation, you end up with a geographical area where there were existing local PUCs or a PUC and Hydro One, and it doesn't make any sense to me that we'd have competition within that area. Was it that the rural areas were Hydro One and Chatham and the other urban areas were PUCs?

Mr Kenney: That's correct.

Mr Bisson: Can you explain to me how that happened?

Mr Kenney: The rural was Ontario Hydro at amalgamation time and all the municipalities were PUCs.

Mr Bisson: What you're suggesting then is that within that geographical boundary, that all becomes one PUC. But what about the transmission from town to town? Would that remain with Hydro One? Is that what you were suggesting?

Mr Kenney: We feel the distribution assets should be one PUC border-to-border in Chatham-Kent.

Mr Bisson: OK. So the transmission that goes through from town to town would still be Hydro One, but how you distribute off that transmission system would be a local PUC.

Mr Kenney: That's correct.

Mr Bisson: That would be a not-for-profit corporation as normal PUCs used to be.

Mr Kenney: That would be a corporation as it's set up now.

Mr Bisson: They're not-for-profit corporations, right?

Mr Kenney: We're for-profit.

Mr Bisson: For-profit—that's right, too. What am I thinking? They changed the legislation.

Mr Kenney: It's every LDC in Ontario—

Mr Bisson: I guess my question is, do you feel you'd be better served as constituents if we went back to the old model of the PUCs because the way they were set up in the past is different than now? That's what I'm asking you. If we went to one system, would we be even better off if we went back to the older system of PUCs that were not-for-profit?

Mr Kenney: I believe the system we have currently works well and is very effective, but we feel two distributors is the problem.

Mr Bisson: I agree with you on that, but would we be better off if you had one distributor under a not-for-profit model? That's what I'm asking you.

Mr Kenney: I feel it would be equal either way.

Mr Gilchrist: Thank you, Mr Kenney. I appreciate you coming before us. It was nice to have the last sentence of all the presenters at least recognize the other half of this bill, which is that the bill provides far greater consumer protection. To those who would have us throw out the bill, they're throwing out those consumer protections at the same time.

I appreciate your suggestion. You're the third utility that has come before us to make a similar suggestion. I'm struck by the fact that it would appear that Judge Gans's ruling says we can't sell that to you because he says we can't sell assets. Judge Gans really goes further and says no one in the province of Ontario has property rights. That's why this bill is necessary and that's why the court challenge is necessary. He says you need a specific law to say you can sell something and it's not an implicit right under common law. I thought we had that since the Magna Carta in 1215, but Judge Gans obviously thinks otherwise.

I guess my question to you is, we had an opportunity for rationalization—and I appreciate there were some utilities that responded faster because there probably was less confusion at the time, but it seems to me the sword cuts both ways. To bring about that rationalization and

those efficiencies, why didn't Chatham-Kent sell its customers to Hydro One? When you answer that, would you be prepared to buy the Hydro One assets at the same price they would have offered you?

Mr Kenney: I can't comment on the reasons local council made the decision they did to retain local ownership. My opinion is that they wanted local accountability to stay in Chatham-Kent and they wanted control for the benefit of the economic future of this community.

Mr Gilchrist: The other half of my question is, would you be prepared to pay Hydro One the same price they were prepared to pay you for that integration?

Mr Kenney: We certainly think Hydro One paid exorbitant prices for the utilities they bought throughout Ontario. So we would be prepared, whatever the rate is at the time—and what that rate is, I'm not sure.

Mr Gilchrist: Could I just ask you a quick supplementary? By the way, AL McDonald, it should be noted, as the deputy mayor of North Bay—

Mr Mazzilli: Was.

Mr Gilchrist: —former deputy mayor of North Bay—was responsible in the last election campaign for seeing that North Bay was the other utility that did not go to the maximum rate. I appreciate that AL brings that perspective to the table here today.

Is there a commitment, considering that the utility is 100% owned by the municipality, that every penny of those profits will be used to offset property taxes?

Mr Kenney: I can't speak for the municipality.

Mr Gilchrist: So they've never made any resolution to that effect?

Mr Kenney: The profits from Chatham-Kent Hydro do go back to the municipality.

Mr Gilchrist: Right. So we can—

Mr Kenney: But what programs—

Mr Gilchrist: Hopefully the local citizenry here will make sure, through their politicians, that they don't have their pocket picked twice because—

Mr Kenney: That's up to—

Mr Gilchrist: You would agree with me there was no law that made you add 6.04% to your former not-for-profit model, was there?

Mr Kenney: No, there wasn't.

Mr Gilchrist: Thank you very much, sir.

The Vice-Chair: Thank you very much for taking the time to come in and make your presentation. To all those who came out this morning, thank you as well.

This committee stands adjourned until—

Mr Hoy: Mr Chair?

The Chair: Yes, Mr Hoy?

Mr Hoy: I think it's a reasonable question to ask. Either through you or the clerk, my understanding is that deputants here this morning said there was advertising on the local news this morning that we were sitting this afternoon. I guess I have two questions: is there sufficient word going out to the people that we are not sitting this afternoon, and will there be government members here to meet them should they not have heard that word?

The Vice-Chair: Yes, the clerk did contact the radio station and have them broadcast that it was this morning. She's leaving instructions so that anyone who didn't get the original message will have an opportunity to make a written or electronic submission that will be taken into account.

Mr Hoy: When would the final date for that be?

The Vice-Chair: The written submission must be received by noon Monday, written or e-mail—

Mr Hoy: It remains the same?

The Vice-Chair: Sorry?

Mr Hoy: It remains as it was, then—Monday noon?

The Vice-Chair: Yes, that's correct.

This meeting stands adjourned until Monday at 3:30 in Toronto.

The committee adjourned at 1122.

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Reliable Energy and
Consumer Protection Act, 2002

Comité permanent des affaires gouvernementales

Loi de 2002 sur la fiabilité
de l'énergie et la protection
des consommateurs

JUL 16 2002

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LEGISLATIVE ASSEMBLY OF ONTARIO

ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

STANDING COMMITTEE ON
GENERAL GOVERNMENTCOMITÉ PERMANENT DES
AFFAIRES GOUVERNEMENTALES

Monday 24 June 2002

Lundi 24 juin 2002

*The committee met at 1542 in room 151.*RELIABLE ENERGY AND CONSUMER
PROTECTION ACT, 2002LOI DE 2002 SUR LA FIABILITÉ
DE L'ÉNERGIE ET LA PROTECTION
DES CONSOMMATEURS

Consideration of Bill 58, An Act to amend certain statutes in relation to the energy sector / Projet de loi 58, Loi modifiant certaines lois en ce qui concerne le secteur de l'énergie.

The Vice-Chair (Mr Norm Miller): I call this meeting to order. The committee will begin clause-by-clause consideration of Bill 58, An Act to amend certain statutes in relation to the energy sector.

Are there any comments, questions or amendments and, if so, to which sections? We'll begin with sections 1 through 5. Any discussion?

Mr Michael Bryant (St Paul's): Mr Chair, we can deal with discussion now or we can deal with it during the amendments. I think it might make more sense to deal with it through the amendments, so I'll defer until we get there.

The Vice-Chair: Very good. I will now put the question. Shall sections 1—

Mr Bryant: Sorry, Mr Chair. I'm confused here. Do we not deal with the amendments and then deal with the question?

The Vice-Chair: There are no amendments to sections 1 through 5. So we'll deal with sections 1 through 5.

Mr Bryant: I'm looking here at schedule A—

The Vice-Chair: Sorry, Schedule A, sections 1 through 5.

Mr Bryant: I've moved amendments to section 1.

The Vice-Chair: Sections 1 through 5, which is not schedule A, have no amendments.

Mr Bryant: Sorry, have patience with me here, Mr Chair.

The Vice-Chair: Take your time.

Mr Bryant: I promise it'll pay off. I've got it. OK.

The Vice-Chair: I'll now put the question.

Ms Marilyn Churley (Toronto-Danforth): I wanted to ask for a recorded vote. Is it too late for that now?

The Vice-Chair: Recorded vote.

Ayes

Dunlop, Gilchrist, Gill, McDonald.

Nays

Bryant, Churley, Colle.

The Vice-Chair: Carried.

Schedule A, section 1: Liberal motion 1.

Mr Bryant: I move that clause 1(f.1) of the Electricity Act, 1998, as set out in section 1 of the schedule A to the bill, be struck out.

This really gets to the heart of the bill. We have two serious concerns. Dalton McGuinty and the Ontario Liberals are opposed to the privatization of the Ontario electricity highway. There is also a democratic concern here, and that's why the bill's been dubbed the blank-cheque bill. I think that in the public marketplace of ideas, on the basis that we should not give the discretion to the executive to make this decision, rather this decision must be put to the Legislature and put to a vote so that Ontarians know one way or the other what the future of Ontario Hydro is. Right now we do not know what it is. One day the sale of it was on the table, one day it was off the table; one day the court said it was illegal, and then the government decided to appeal it at the same time as amending it. The Minister of Enterprise and former deputy leader of the government, Mr Flaherty, said the IPO is on the table; Mr Stockwell, the energy minister, said then that it was off the table. It's gone back and forth. I think Ontarians deserve to know what the position of the government is before we put it to the Legislature. In fact, we don't get that with the Hydro One blank-cheque bill, thus the amendment.

Ms Churley: I would ask for a recorded vote, when we vote, and speak in support of this amendment. This does get to the crux of the whole matter. It removes the section that allows privatization and that gets to the very crux of the matter. It's something that the New Democrats have been opposing, and indeed that over 70% of Ontarians oppose. This bill should be dealing with consumer protection and some of the other matters that have been raised as concerns for Ontarians. I believe a poll shows that 87% or so of Ontarians at least want an election before any bill is passed that opens up and allows privatization of Hydro One, which this section

would allow. The New Democratic Party vehemently opposes this section and supports the Liberal amendment.

The Vice-Chair: I will now put the question on Liberal motion 1.

Ayes

Bryant, Churley, Colle.

Nays

Dunlop, Gilchrist, Gill, McDonald.

The Vice-Chair: I declare the motion lost.
Shall section 1 carry?

Mr Bryant: Recorded vote.

Ayes

Dunlop, Gilchrist, Gill, McDonald.

Nays

Bryant, Churley, Colle.

The Vice-Chair: I declare the section carried.

Shall section 2 of schedule A carry? I declare the section carried.

Liberal motion 2.

Mr Bryant: I move that subsection 13(3.1) of the Electricity Act, 1998, as set out in section 3 of schedule A, be struck out.

Mr Steve Gilchrist (Scarborough East): On a point of order, Chair: Mr Bryant, you actually have to read all the words in there, so after "schedule A"—

Mr Bryant: I'll just repeat it. I move that subsection 13(3.1) of the Electricity Act, 1998, as set out in section 3 of schedule A to the bill, be struck out.

The Vice-Chair: Discussion?

Mr Bryant: Basically, this particular provision deals in part with a complaint that I guess I should raise at this time, which is from our Information and Privacy Commissioner. An officer of the Legislature has blown the whistle on the government and said, in fact, that the trade secrets and private sector competition issues that might arise in dealing with the electricity competition market are already addressed in the existing Freedom of Information and Protection of Privacy Act. Those protections are there. If the government is bringing forth a consumer protection bill, then why is it including in that bill a provision that in fact doesn't help consumers in any way, shape or form, but rather shields consumers from getting information that, interestingly, they rightfully had access to under the government's own bill, the Electricity Act, 1998? Let's be clear: either the privacy commissioner is right today and this provision should not stand, or the government has been wrong since 1998, when it had a provision in place that permitted what the government now wishes to change.

1550

Second, and I guess I should say this now, the Information and Privacy Commissioner, Anne Cavoukian, was consulted extensively with respect to the Electricity Act, 1998. She expressed a number of concerns at that time. I think it is extraordinary that this government would not consult with the Information and Privacy Commissioner, would not have invited her to appear before this committee and would not have worked with her as closely as they clearly worked with other stakeholders in making amendments to address information and privacy issues. The government did not do that.

I called on it last week and I call on it again. The government should not be proceeding in this fashion. It should in fact be extending the committee hearings to hear from the Information and Privacy Commissioner and should be addressing the issues she addressed in her letter to the committee of last week, so that we can get this right. Clearly the government is making changes to its own bill because they felt they didn't get it right before, and because we're rushed in this process. We're not addressing these important issues that were raised in question period and not addressed during question period, and they must be addressed by this committee, thus the amendment.

Ms Churley: I support this amendment. What it does is remove the section preventing the market surveillance panel's activity from being under freedom of information. After receiving such a compelling letter from the Information and Privacy Commissioner and her expression of such strong concerns about these information rights being taken away from Ontarians, particularly after we see at first hand what happened in California and with Enron and the kinds of manipulation and downright scams that took place there and the potential for that to happen, as we've seen now all across the US as markets have opened up, it is very real.

Now that we have the letter from the privacy commissioner, I am offended that we're actually going ahead and proceeding under a time allocation motion, with these amendments coming to us just this morning and not having time to be able to analyze them completely, as it were, but at the same time having to deal with this without a good discussion and an ability to bring in the privacy commissioner so we can have a discussion about the implications of her concerns.

Finally, I find that the government uses the advice from the privacy commissioner at their convenience. I recall when my Bill 77 was before this committee, the adoption disclosure bill which I'm still trying to get passed and which over 99% of legislators support, I did speak to the privacy commissioner as a courtesy, and I really did want her information and her analysis of the bill. She expressed, in my view, some mild concern about that bill compared to the concerns she's expressed around Bill 58. The government conveniently used some mild concerns expressed about that bill to avoid supporting it. Now we have before us a letter from the privacy commissioner expressing grave concerns about this particular

aspect of this bill, and we find the government is choosing to ignore her concerns in this case. I think they are very serious concerns. I would urge the government members to take her concerns seriously and support this amendment.

Mr Gilchrist: I would just put on the record that I certainly respect the views of the members opposite. We believe the information collected by the market surveillance panel, which largely relates to law enforcement issues, falls into the same category as information that would be collected by a police force in a similar matter. We're quite comfortable that the position taken by the privacy commissioner is not supportable in this section. Furthermore, it's my understanding that she had made those representations before and had the explanation given to her as to why the bill was constructed in the fashion it is.

The Vice-Chair: I will now put the question on Liberal motion number 2.

Ms Churley: Recorded vote.

Ayes

Bryant, Churley, Colle.

Nays

Dunlop, Gilchrist, Gill, McDonald.

The Vice-Chair: I declare the motion lost.

Shall section 3 of schedule A carry? I declare the section carried.

Section 4: Liberal motion number 3.

Mr Gilchrist: I believe that is out of order.

Mr Bryant: Why don't we do this? Why don't I read it? Can I read it?

Mr Gilchrist: Mr Bryant, could I just say that what you normally do is speak to the section instead of speaking to an amendment. It has the same effect. I'm just helping out with the process.

Mr Bryant: OK. Why don't I read it and if you object, then we can go through it?

The Vice-Chair: OK. Go ahead and read it.

Mr Bryant: The Liberal Party recommends that the committee vote against section 4 of schedule A to the bill.

It is a recommendation to the committee; it is not a motion. I'll seek guidance from the clerk and the Vice-Chair as to whether it's in order.

The Vice-Chair: I declare it is not in order.

Mr Bryant: Shall we speak to the issue now?

The Vice-Chair: Speak to the section.

Mr Bryant: OK, I'll speak to the section. The purpose of this recommendation, which has been ruled out of order by the Vice-Chair, is simply to repeat the specific concerns and to table before the committee the amendments that were recommended by the Information and Privacy Commissioner.

I'm not going to repeat everything I said before, other than to say that I think this is an unusual way to proceed, in that the Privacy Commissioner has written a letter to the committee, as formal a submission as she could provide under the circumstances. I understand that the energy minister has responded to the submission of the Information and Privacy Commissioner in scrums, in question period and in this committee.

But would it not be more appropriate for the government to bring the Privacy Commissioner before this committee, have Dr Cavoukian make her arguments and then have the government respond, instead of just the blanket refutation by the Minister of Energy that we're hearing in the House and in this committee today? I find this to be a very unusual way to deal with a submission from an officer of the Legislature.

Mr Gilchrist: Mr Bryant, I might share your surprise at the process Ms Cavoukian followed, because she's certainly no stranger to the legislative process. She has appeared before our committee on numerous occasions on a variety of bills and has in fact commented, not just on government bills, but on private members' bills.

I have to assume, given the timing of Ms Cavoukian's letter, that she was aware that the committee was holding these hearings. If she was aware of that, it would have to follow that she was aware of her right to appear before the committee. I can state that in every stop we made across the province, we had vacant positions. There would have been no problem for Ms Cavoukian to find the time to come before us. And I can tell you that if members opposite had asked us to waive the 10-minute limit in recognition of her special status, I certainly would have supported that.

But she chose not to avail herself of the opportunity presented to all 12 million Ontarians. So it would seem, in that light, our only response could be to pursue the course we've set out. I'm sure there will be correspondence back to Ms Cavoukian outlining the rationale for this bill.

Ms Churley: We can't have unanimous consent, I presume, if something is ruled out of order. Can I ask for unanimous consent that this be considered to be in order, given the circumstances? I'm just addressing myself to the Chair. I'm asking for unanimous consent for this section to be removed.

The Vice-Chair: You can ask for unanimous consent.

Ms Churley: I ask for unanimous consent to have this section removed from the bill.

The Vice-Chair: Is there unanimous consent?

Mr Gilchrist: No.

1600

Ms Churley: OK. Let me speak to that. I appreciate the comments made by Mr Gilchrist, but I think "them's fightin' words" when it comes to the Privacy Commissioner. For whatever reasons, she did not appear before the committee—I don't know if she was invited to appear before the committee—and did not let her views be known until near the end.

But let's recall that this bill has been time-allocated and rushed through, and it's a very important bill. It has

partially to do with the privatization of Hydro, which everybody opposes. She did get her views known to the committee on Friday. And given that we just got those views then, I think it's incumbent on us as a committee to take those views seriously. If we're not removing this section, we should have some kind of opportunity to explore her comments in more detail. Once this bill is passed, it's legislation, and not to have some kind of serious consideration of her grave concerns, I think, is a miscarriage of justice when we're passing a bill that could have—and again I remind people of what happened in California and with Enron and the implications of what could happen to consumers in this province. I think we're making a very serious error here today by passing this bill, as is, without having further consideration of the privacy commissioner's views. Mark my words: it's going to come back to haunt the government members.

Mr Gilchrist: Perhaps I could just correct the record, Ms Churley. We received that letter before we left Toronto. So it couldn't have been Friday; it was no later than—

Ms Churley: I just said the wrong day. Sorry.

Mr Gilchrist: That's OK. In the interest of accuracy, it was certainly no later than Thursday that the clerk received it and transmitted it.

Ms Churley: Of course you're right. We were travelling together on Friday, and I got my days wrong. It would have been Thursday. Thank you for correcting the record.

The Vice-Chair: Any further discussion?

I will now put the question on section 4, schedule A.

Ms Churley: Recorded.

Ayes

Dunlop, Gilchrist, Gill, McDonald.

Nays

Bryant, Churley, Colle.

The Vice-Chair: The section carries.

Section 5: there are no amendments. Any comments on section 5?

I will now put the question.

Shall section 5 of schedule A carry? Section 5 of schedule A carries.

Liberal motion 4.

Mr Bryant: I move that subsection 37(17) of the Electricity Act, 1998, as set out in section 6 of schedule A to the bill, be struck out.

The Vice-Chair: Discussion?

Mr Bryant: Again, I don't want to repeat myself: the same issue, the same problem. I guess I would just say, in response to the parliamentary assistant's comments before, that I find it passing strange that the government would not have directly consulted with the privacy commissioner in the circumstances. She had much to say with

respect to the 1998 bill. She made a number of recommendations and, according to her letter, was consulted at length and provided objections at the time.

I understand the government's answer is that she could have asked to appear before the committee. So too could the government have invited her. But putting that aside, is the government saying it never consulted with the privacy commissioner on this issue, when she already spoke to this very bill and had privacy concerns at the time? To me, it would be the equivalent of putting together legislation affecting privacy in the health care system, where we know the privacy commissioner is going to have something to say on it and there has to be a certain amount of consultation before, during or after introduction of the bill. Again, I find that while it may be strictly within the letter of the time allocation motion and permissible, that doesn't mean the government should not have consulted her. I find it strange that they are proceeding in this way.

Ms Churley: I speak in support of this amendment. Again, for the record, what this amendment does is remove from the bill another section that prevents FOI from applying, the same concerns I raised in the previous amendment that government members just voted down. That's what the section does, and that's what the government members once again will be voting against, a section that in my view protects the interests of the rate-payers of Ontario.

Mr Gilchrist: I appreciate the question Mr Bryant has posed here. Our previous conversation related to Ms Cavoukian's appearance before the committee. I certainly want to let you and the other members of the committee know that she was in fact consulted prior to the drafting of the bill, and in fact the IMO made a number of changes—

Mr Bryant: On this bill?

Mr Gilchrist: —on this bill—to the process that's recommended in this bill to accommodate her concerns.

The Vice-Chair: I will now put the question on Liberal motion number 4.

Mr Bryant: Recorded vote.

Ayes

Bryant, Churley, Colle.

Nays

Dunlop, Gilchrist, Gill, McDonald.

The Vice-Chair: I declare the motion lost.

Mr Bryant: I move that section 37.3 of the Electricity Act, 1998, as set out in section 6 of schedule A to the bill, be amended by adding the following subsection:

"Same

"(1.1) The Freedom of Information and Protection of Privacy Act applies with respect to the information and material described in subsection (1), and the panel is an institution for the purposes of that act.

"Same

"(1.2) The disclosure of information and material described in subsection (1) is governed by the Freedom of Information and Protection of Privacy Act and that act prevails over subsection (1)."

The Vice-Chair: Discussion?

Mr Bryant: I would raise another issue, because I don't want to repeat. The purpose of this is again to address the concerns raised by the Information and Privacy Commissioner. My question would be, if these amendments are necessary—and I assume they are or else the government would not have brought these amendments to the Electricity Act, 1998—at what point did the government become aware of the fact that there needed to be some kind of protections that they allegedly say they need for companies participating in the electricity competition marketplace? And if that's the case, then have we been operating under some anarchy since May 1 when the electricity competition marketplace opened? Again, I repeat, either the privacy commissioner is right and these amendments being brought by the government are wrong, or else the government was wrong to bring in the laws that it did in 1998 and has created the unsustainable position that it now feels it has to fix.

Ms Churley: I've got the letter in front of me. I just want to put on the record some of the concerns raised by the privacy commissioner. She says, "In my view, there is a strong public interest in ensuring that the deregulation of the electricity market in Ontario is open and transparent. In California, deregulation was accompanied by rolling blackouts, skyrocketing electricity rates for consumers, and allegations that large power companies were deliberately withholding electricity in order to induce a supply crisis that would spike up rates. The California experience would seem to shift the balance in favour of greater transparency in the deregulation process in Ontario, not less."

She goes on to say, "However, the proposed amendments in sections 3, 4, and 6 of schedule A of Bill 58 would seriously restrict the public's right to access certain information about the newly deregulated electricity market and the conduct of key market participants. In my view, none of the information gathered by the IMO and its market surveillance panel should enjoy a 'blanket' exemption from disclosure that cannot be reviewed by my office."

That's just a section of the letter. Again, I want to point out how serious these concerns are, given what we know and the information that's been raised time and time again by my leader, Howard Hampton, in the House over the last several months and indeed by people all over North America and the western world when it comes to the kinds of things that have been happening under deregulation.

The commissioner makes it very clear that we should be moving to better and more transparency. She is pointing out that this bill is taking us further down the road in the opposite direction. I just wanted that for the record, so people understand how important this amendment is

vis-à-vis the concerns expressed by the privacy commissioner.

1610

Mr Gilchrist: If we're putting things on the record, then I would invite the members opposite to look at the equivalent independent electricity system operators in other jurisdictions across North America: Pennsylvania, California, New York, Texas, Alberta and throughout New England. While every one of those jurisdictions has access to information and privacy laws, their independent system operators are not covered.

I would also challenge you to look at the amount of information that our IMO is publishing. A quick look at their Web sites would tell you there is a glaring difference between the availability of information here in Ontario and what is provided across North America.

The IMO has certain general confidentiality provisions of course. It has published a complete information catalogue showing what will be public, what's confidential and what will become public after some delay. That catalogue was extensively stakeholdered, including consumer reps, with considerable opportunity for public comment.

A lot more commercial information is being put into the public realm than probably in any other jurisdiction we have considered. The process already provides for release of more commercial information than many companies wanted, but it was accepted as an appropriate balance of interests. Without confidence, that information classified as confidential can be protected. Market participants would want to retain all the potential protections available to them under section 17 of the Freedom of Information and Protection of Privacy Act.

If market participants are sure the catalogue will be respected, the result will be faster and broader disclosure, because they have certainty as to what will and won't be released.

Here's the crux of the issue: the IMO and MOEE staff tried to get assurances from the Information and Privacy Commissioner. The IPC would not give any assurance as to whether they agreed or disagreed with the classification. With the greatest respect to Ms Cavoukian, the government cannot afford to stand still. In the absence of any kind of sign-off, we have considered the options, we have looked at other jurisdictions and we've moved forward with legislation that we think strikes a fair balance between access to appropriate commercial information while still respecting confidentiality on those matters that in any other context in the marketplace you and I would not have access to in discussions of private corporations.

The Vice-Chair: I will now put the question on Liberal motion number 5.

Mr Bryant: Recorded vote.

Ayes

Bryant, Churley, Colle.

Nays

Dunlop, Gilchrist, Gill, McDonald.

The Vice-Chair: I declare the motion lost.

Shall section 6, schedule A, carry? I declare section 6, schedule A, carried.

Government motion number 6.

Mr Gilchrist: I move that section 42.1 of the Electricity Act, 1998, as set out in section 7 of schedule A to the bill, be amended by striking out "in favour of a transmitter or distributor for the purpose of transmission or distribution" and substituting "in favour of a generator, transmitter or distributor for the purpose of generation, transmission or distribution."

Quite simply, this amendment provides that easements that were inherited by OPG from the former Ontario Hydro continue to remain valid. The overwhelming majority of these easements provide access to waterways simply for maintenance purposes.

Ms Churley: May I just ask a technical question? Why would a generator be included in that? I obviously understand when it comes to transmission and distribution, but I'm not sure how the generator would fit in here.

Mr Gilchrist: It's my understanding, Ms Churley, that would include easements that the power plants might have out into Lake Ontario for access: the inlet and outlet of their cooling system, the water flows, that sort of thing. Obviously, there are those connections right from the power plant to the grid. A portion of that may be owned by OPG before it actually transfers to Hydro One.

The Vice-Chair: I will now put the question on government motion number 6.

Mr Bryant: Is there discussion on this point?

The Vice-Chair: Yes.

Mr Bryant: I'm going to get my blanket discussions out, or my blanket concerns, I guess. I understand this is a technical amendment and we're not going to oppose it, but by my quick count there are more than 40 government amendments to this bill. I think that means there are people in the Ministry of Energy who have been working very hard over the last few days to try and clean this bill up; to find the mistakes, root them out and fix them. If there is any testament as to why we ought not to rush this bill through, why we ought to have more hearings, more time, more debate and not a guillotine motion, it is this.

By the government's own admission, a bill they introduced, which obviously wasn't passed, has got technical errors in it. Not only is the government fixing something they drafted and passed in 1998, now they're fixing something they introduced just a few legislative days ago—maybe it was weeks ago. I think it speaks to why we ought not to rush this. I ask, have we learned nothing?

Mr Justice Gans found that the government did not have the ability to dispose of Hydro One shares or assets through an IPO. The issue that's before us now is whether or not to give the Legislature that power. At the very least, I think the government probably wishes in hindsight that they had given themselves that power in 1998. I know they are taking the position in the courts that they have always had it. Be that as it may, mistakes are made by governments and mistakes are made in legislation. This has got to go down as a mistake by the

government, if only because the matter has gone to a hearing and received a rather extraordinary result which has put us here today.

This many amendments means that we are rushing. Kudos to the ministry staff for being able to do this in record speed, but shame on the government for forcing us into this position, where we have to ram through these technical amendments under a guillotine motion. I just would repeat here our fervent submission to continue the hearings, to continue debate and to give this Legislature, and not the executive, the last word on a matter of such importance to Ontarians.

Mr Gilchrist: I guess we'll just have to remain having different perspectives on life in general, Mr Bryant. I look at the number of amendments and see in that the fact that, whether it was in the hearings or direct intervention by interested parties from across Ontario since the bill was tabled, we have listened, we have respected the input we've heard and we have reflected it with appropriate amendments that hopefully will find favour on both sides of this committee, and we'll move forward to having the best possible bill emerge from this committee.

Ms Churley: It's not possible to have the best possible bill, given that the government will not accept any of the opposition amendments which would make it the best possible bill.

I just want to say that, because we got these technical amendments so late in the day and we're debating them now, I may be voting against some of those technical amendments simply because I haven't had the time to look at the full implications. They may well be needed and they may be amendments that, if I had the time to study them further, I might support. But if I'm not sure of the implications, then I may be voting against them simply because I haven't had the time to look at the implications.

The Vice-Chair: I will now put the question on government motion number 6.

All those in favour? All those opposed? I declare the motion carried.

Shall section 7 of schedule A, as amended, carry? Carried.

Shall section 8 of schedule A carry? Carried.

Section 9: government motion number 7.

Mr Gilchrist: I move that section 9 of schedule A to the bill be amended by adding the following clause after clause 46(2)(c) of the Electricity Act, 1998:

"(c.1) a subsidiary of Ontario Power Generation Inc that is authorized to generate electricity."

It simply adds a subsidiary of Ontario Power Generation to the list of entities to whom unregistered right may be transferred.

The Vice-Chair: I will now put the question.

Shall government motion number 7 carry? Carried.

Shall section 9 of schedule A, as amended, carry? Carried.

Liberal motion number 8.

Mr Bryant: I move that subsection 49(1) of the Electricity Act, 1998, as set out in section 10 of schedule A to the bill, be struck out and the following substituted:

"Shares in Hydro One Inc

"49(1) The minister, on behalf of Her Majesty in right of Ontario, may acquire and hold shares of Hydro One Inc."

The Vice-Chair: Discussion?

Mr Bryant: This is an issue that was addressed directly in the decision of Mr Justice Gans. I agree with the ruling of Mr Justice Gans, the government will be shocked to hear. The matter is before the court. I think it is highly unusual that this specific issue, ruled upon by the Ontario Superior Court, would be before a committee of this Legislature. I don't know how many times I've heard the government say it cannot even look at an issue because the matter is before the courts.

1620

Mr Mike Colle (Eglinton-Lawrence): Ipperwash.

Mr Bryant: Ipperwash certainly jumps to mind. Yet now we have something that is in fact before the Ontario Court of Appeal and we are not waiting to get direction from the Ontario Court of Appeal, nor are we going to wait to see what the final outcome would be, because it could, and very well will, be appealed to the Supreme Court of Canada. Whether it is given leave or not is another issue. But we have the matter before the Court of Appeal, the government has sent its lawyers in there to make the argument, and yet we are ruling on it here in a legislative committee.

I believe there's a dialogue between the courts and the Legislature. Ultimately, the people can get the last word in most cases under our Constitution. Certainly under section 33 of our constitution, anything ruled under the charter can eventually be—the views of a Legislature can be substituted, but the less radical alternative is that Legislatures wait to hear from the courts and then respond. They may overrule the courts. They may adjust their position. That's why Attorney General David Young, for example, said of a private member's bill that I introduced on contingency fees, "Let's wait to hear from the Ontario Court of Appeal." I agree with him. I wouldn't want the bill to go to debate and be voted upon until that's completed. But he said that with respect to that bill and he said something else with respect to this bill. While I'm not suggesting that it's out of order, I would say that this is extraordinary. What I'm trying to do is ensure that, in fact, we hear from the courts and then only at that time does the Legislature respond, rather than engaging in this exercise where we're before the courts and before the Legislature at the same time.

The Vice-Chair: Further discussion? I will now put the question on Liberal motion number 8.

Mr Bryant: Recorded vote.

Ayes

Bryant, Churley, Colle.

Nays

Dunlop, Gilchrist, Gill, McDonald.

The Vice-Chair: I declare the motion lost.

Liberal motion number 9.

Mr Bryant: I move that subsections 50(1) to (3) of the Electricity Act, 1998, as set out in section 10 of schedule A to the bill, be struck out and the following substituted:

"Corporations to hold shares

"50(1) The Lieutenant Governor in Council may cause corporations to be incorporated under the Business Corporations Act for the purpose of acquiring and holding shares in Hydro One Inc.

"Same

"(2) Shares in a corporation incorporated pursuant to subsection (1) may be acquired and held in the name of Her Majesty in right of Ontario by a member of the executive council designated by the Lieutenant Governor in Council."

The Vice-Chair: Discussion?

Mr Bryant: Again, this comes down to the heart of the matter before the court and the heart of the matter before the Legislature: can and ought Hydro One to be privatized? We say no; the government says yes. This amendment seeks to address that very issue.

Ms Churley: I have a concern, and perhaps I can get an answer to this question. I agree with the premise of the amendment, but it seems to me the wording suggests that you want it public but you want it to operate like a private sector company, because of the incorporation under the OBCA. My concern with the way it's worded is that this private sector wannabe perspective is partly what led to the high executive salaries and some of the things that happened already with the kind of private sector wannabe entity that's in place now. Given that, that's my reading of the amendment. Although I support the premise, I'm concerned about the wording and that implication and would vote against it.

Mr Bryant: The legislative drafting seeks to incorporate the premise that in fact the government of Ontario ought not to have the power to dispose of the securities, and that's the purpose of it. If there is some language in it that the third party wishes to amend, I would be open to a friendly amendment. But clearly the point here is to address the word "dispose" in the existing legislation. Again, we are opposed to that. I know the government is trying to get that power, and that's the heart of the bill. That's the purpose of the provision; that's the purpose of the amendment. Enough said.

The Vice-Chair: I will now put the question on Liberal motion number 9.

Mr Bryant: Recorded vote.

Ayes

Bryant, Colle.

Nays

Churley, Dunlop, Gilchrist, Gill, McDonald.

The Vice-Chair: I declare the motion lost.

Liberal motion number 10.

Mr Bryant: I move that sections 50.1 and 50.2 of the Electricity Act, 1998, as set out in section 10 of schedule A of the bill, be struck out.

The Vice-Chair: Discussion?

Mr Bryant: Section 50.1 is a section that would enable the creation of an income trust or other arrangement. There are a number of options that are on or off the table at any one time, depending on whether or not there's a by-election in Ontario. The income trust option was blurted out by the energy minister after he shut down the first round of consultations. He came out in the afternoon and he said out of nowhere, "We're looking at an income trust," when the government had been talking about an IPO all along. It was the first crack in the government's ongoing position with respect to the IPO. Again, we want to keep it public. The purpose of this provision is to permit that it stay public and stay controlled by the public, and that's the purpose of the amendment.

Ms Churley: I support this amendment. As had been pointed out at the public hearings time and time again, the public are not out there discussing the merits of a 99-year lease or a trust or any other kind of option, except to keep Hydro One and, indeed, all of Hydro—the generation of our electricity as well—in public hands. That is what people are saying. They're not discussing, not caring about these other options. They made it clear to the government that they want to keep Hydro in public hands, so this should be struck. I support the amendment to support the huge majority of Ontarians who just say no to privatization in any form.

The Vice-Chair: I will now put the question on Liberal motion number 10.

Ms Churley: Recorded vote.

Ayes

Bryant, Churley, Colle.

Nays

Dunlop, Gilchrist, Gill, McDonald.

The Vice-Chair: I declare the motion lost.

Shall section 10 of schedule A carry? Carried.

Shall sections 11 through 22 carry? Carried.

Government motion number 11.

Mr Gilchrist: I move that section 114.1 of the Electricity Act, 1998, as set out in section 23 of schedule A to the bill, be amended by adding the following definition:

"'effective date' means the date on which section 23 of schedule A to the Reliable Energy and Consumer Protection Act, 2002 comes into force;"

This amendment simply pertains to having a later proclamation date. The amendment provides a definition

of the effective date, namely, the date that section 23 is to come into effect.

The Vice-Chair: Discussion? I will now put the question.

Shall government motion number 11 carry? Carried.

Government motion number 12.

Mr Gilchrist: I move that subsection 114.2(1) of the Electricity Act, 1998, as set out in section 23 of schedule A to the bill, be amended by striking out "May 29, 2002" wherever it appears and substituting "the effective date".

The Vice-Chair: Discussion?

Mr Gilchrist: Same as the last one.

The Vice-Chair: I will now put the question. Shall government motion 12 carry? Carried.

Government motion number 13.

Mr Gilchrist: I move that subsection 114.4(2) of the Electricity Act, 1998, as set out in section 23 of schedule A to the bill, be amended by striking out "any lease, licence, agreement or other arrangement affecting corridor land" and substituting "any lease or agreement entered into or licence obtained before the effective date that affects corridor land or any easement or right created before the effective date with respect to corridor land".

The Vice-Chair: Discussion?

Mr Gilchrist: It simply deletes "other arrangement" and adds "or any easement."

1630

The Vice-Chair: I will now put the question.

All those in favour of government motion number 13? Carried.

Government motion number 14.

Mr Gilchrist: I move that subsections 114.5(1) and (2) of the Electricity Act, 1998, as set out in section 23 of schedule A to the bill, be struck out and the following substituted:

"Statutory right to use corridor land

"114.5 (1) The person or entity from whom corridor land is transferred by section 114.2 has a right to use the land to operate a transmission system or distribution system.

"Duty to maintain

"(2) The person or entity who has the right created by subsection (1) has a duty to maintain the corridor land at his, her or its own expense, including repairing or replacing buildings, equipment and structures on the land that are used by the person or entity, or used with his, her or its permission, if a prudent person would repair or replace them.

"Same

"(2.1) The Chair of Management Board may direct the person or entity who has the right created by subsection (1) to engage in such additional activities to maintain the corridor land at his, her or its own expense as the Chair of Management Board considers appropriate.

"Exception

"(2.2) The person or entity who has the right created by subsection (1) is not required to maintain corridor land that is being used for a purpose other than the operation of a transmission system or distribution system, unless it

is being used for that purpose with the permission of the person or entity.”

The Vice-Chair: Discussion?

Mr Gilchrist: It provides the statutory right to operate a distribution system, in addition to a transmission system, and provides that it's Hydro One's responsibility to maintain the corridor land, including buildings, structures and equipment, consistent with its use of the land.

Ms Churley: I'm speaking in support of this amendment, although ultimately I will not be supporting the bill. Obviously, the majority of members here are Tories and the bill is likely to pass, but I think this is a good amendment. I'm happy to say that the government listened to Jack Layton, Howard Hampton and myself, who were out there shortly after the prospectus came out. We saw this threat and held a couple of news conferences and the issue got in the media and the government paid attention and, indeed, put forward amendments. This is a win for the people of Ontario.

Mr Gilchrist: May I just suggest, Ms Churley, that you were preaching to the choir. But that's OK. There's a wide tailgate and you're welcome on it.

Mr Bryant: I would just like to congratulate MPP Mario Sergio for having a private member's bill that was brought before the Legislature, received the support of the Legislature and has now been incorporated by the government. This is a great victory for Dalton McGuinty, Mario Sergio and Ontario Liberals.

Mr Gilchrist: You're trapped now. Remember that the next time you say we don't listen. But that's OK.

The Vice-Chair: I will now put the question on government motion 14.

All those in favour? Opposed? Carried.

Government motion number 15.

Mr Gilchrist: I move that subsection 114.5(4) of the Electricity Act, 1998, as set out in section 23 of schedule A of the bill, be amended by striking out “an interest in real property” and substituting “an easement”.

The purpose of the amendment is to clarify the nature of the statutory right as that of an easement, the rights and obligations of which are better understood by the marketplace and the legal community.

Ms Churley: Is that just correcting what I perceive to be a fairly serious drafting error here?

Mr Gilchrist: No, the representations we got were that the use of the term “easement” was just something that laypersons would be more familiar with, but that both are interchangeable.

Ms Churley: I see.

The Vice-Chair: I will now put the question.

Those in favour of government motion number 15? Opposed? Carried.

Government motion number 16.

Mr Gilchrist: I move that subsection 114.5(7) of the Electricity Act, 1998, as set out in section 23 of schedule A of the bill, be amended by adding “or distribution system” after “transmission system”.

The Vice-Chair: Discussion?

Mr Gilchrist: This section now provides for the payment of incremental costs of Hydro One related to the operation of a distribution system, as may be prescribed by regulation.

Ms Churley: I support this, but it seems to me that in this one the government forgot that these corridors would be used for distribution as well as transmission, and this is correcting that rather large oversight.

The Vice-Chair: I will now put the question.

All those in favour of government motion number 16? Opposed? Carried.

Government motion number 17.

Mr Gilchrist: I move that subsection 114.6(1) of the Electricity Act, 1998, as set out in section 23 of schedule A of the bill, be struck out and the following substituted:

“Primacy of use for transmission or distribution system

“114.6(1) A person or entity who owns corridor land shall not use it in such a way that the level of service provided by a transmission or distribution system owned by the person or entity who has the statutory right to use the land is reduced.”

This clearly is an amendment to reflect the primacy of the use of the lands for transmission or distribution.

The Vice-Chair: Further discussion? I will now put the question.

All those in favour? Opposed? Carried.

Government motion number 18.

Mr Gilchrist: I move that subsection 114.6(2) of the Electricity Act, 1998, as set out in section 23 of schedule A of the bill, be amended by adding “or distribution system” after “to expand a transmission system”.

The Vice-Chair: Discussion?

Mr Gilchrist: Similarly, the purpose of the amendment is to allow for the expansion of a distribution system, as currently provided with respect to transmission systems.

The Vice-Chair: I will now put the question.

All those in favour of government motion number 18? Opposed? Carried.

Government motion number 19.

Mr Gilchrist: I move that subsection 114.6(3) of the Electricity Act, 1998, as set out in section 23 of schedule A of the bill, be amended by adding “or distribution system” after “expansion of the transmission system”.

The Vice-Chair: Discussion?

Mr Gilchrist: Same rationale.

The Vice-Chair: I will now put the question.

All those in favour of government motion number 19? Opposed? It's carried.

Government motion number 20.

Mr Gilchrist: Again, I move that subsection 114.6(4) of the Electricity Act, 1998, as set out in section 23 of schedule A of the bill, be amended by adding “or distribution system” after “expansion of the transmission system”. Same thing.

The Vice-Chair: I will now put the question.

All those in favour of government motion number 20? Opposed? Carried.

Government motion number 21.

Mr Gilchrist: At the risk of repeating myself, I move that subsection 114.6(5) of the Electricity Act, 1998, as set out in section 23 of schedule A of the bill, be amended by adding “or distribution system” after “expansion of the transmission system”.

The Vice-Chair: I will now put the question.

All those in favour? Opposed? Carried.

Government motion number 22.

Mr Gilchrist: I’m sure it will come as a great shock to everyone that I move that subsection 114.6(6) of the Electricity Act, 1998, as set out in section 23 of schedule A of the bill, be amended by adding “or distribution system” after “expansion of the transmission system”.

The Vice-Chair: I will now put the question.

All those in favour? Opposed? Carried.

Government motion number 23.

Mr Gilchrist: And now for something completely different, I move that subsection 114.6(7) of the Electricity Act, 1998, as set out in section 23 of schedule A of the bill, be struck out and the following substituted:

“Status of agreement

“(7) An agreement described in subsection (6) may be registered on title in the applicable land titles office or registry office and, when it is registered, it is binding on all persons and entities.”

The purpose of this amendment is to provide a legal basis for the registration of any agreements.

Ms Churley: Sorry, is this schedule A, section 23, subsection 114.6(7) that you just read?

Mr Gilchrist: That’s correct, yes.

Ms Churley: OK. If I understand this—it’s technical, but my reading of it is that the agreements referred to give no power to the municipalities over uses that could be important to them. Is that correct?

Mr Gilchrist: I’m sorry, could you say that again?

Ms Churley: My reading of it is—and again, it’s a very quick analysis of what I think it says—that the agreements referred to in section 6 give no power to the municipalities over uses that are important to them. See, it says, “An agreement described in subsection (6) may be registered on title”—I’m sorry; I’m just trying to understand “binding on all persons”. I guess what I’m saying is if my understanding is correct, I’m voting against it. To be on the safe side, for the record, I will be voting against it, unless you can clarify that.

Mr Gilchrist: Perhaps this one is a little tougher to glean right from the amendment itself, but this again simply talks about the primacy of distribution and transmission. No one is suggesting there aren’t other things the land can be put to. It gives a legal basis for the registering of the agreements that were spoken to earlier, and those are the agreements that ultimately, if you go back near the start of 114.6, talk about how the board may authorize a person or entity who has a statutory right to use corridor lands to expand a transmission system on the land and may make such orders. So, as it has been explained to me, this amendment simply clarifies that it’s

a mechanism to make sure you have a legal basis for registering those agreements.

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Ms Churley: But still the municipalities would—it doesn’t take away their rights.

Mr Gilchrist: It doesn’t take away, it doesn’t—

Ms Churley: Is that correct?

Interjection.

Mr Gilchrist: Allow me to say for the record: it doesn’t take away any rights.

Ms Churley: All right. Thank you.

The Vice-Chair: I will now put the question.

Shall government motion number 23 carry? Carried.

Government motion number 24.

Mr Gilchrist: I move that subsection 114.8(2) of the Electricity Act, 1998, as set out in section 23 of schedule A to the bill, be struck out and the following substituted:

“Restriction

“(2) The Chair of Management Board shall not give a direction under this section that would have the effect of reducing the level of service provided by a transmission or distribution system owned by the person or entity who has the statutory right to use the corridor land.”

Again, this just speaks to the privacy of distribution.

The Vice-Chair: I’ll put the question.

All those in favour of government motion number 24? Opposed? Carried.

Government motion number 25.

Mr Gilchrist: I move that subsection 114.8(6) of the Electricity Act, 1998, as set out in section 23 of schedule A to the bill, be struck out and the following substituted:

“Effect of non-compliance

“(6) A person or entity who fails to comply with this section shall remove the building, structure or equipment when given notice to do so by the Chair of Management Board and shall do so at his, her or its own expense.”

The Vice-Chair: Discussion?

Mr Gilchrist: It simply clarifies that, if requested by MBS, if there is a structure that’s impeding the ability to comply with the primary use of those lands, it must be removed.

The Vice-Chair: I will now put the question.

All those in favour of government motion number 25? Opposed? Carried.

Government motion number 26.

Mr Gilchrist: I move that subsection 114.9(2) of the Electricity Act, 1998, as set out in section 23 of schedule A to the bill, be struck out and the following substituted:

“Restriction

“(2) The Chair of Management Board shall not give a direction under this section that would have the effect of reducing the level of service provided by a transmission or distribution system owned by the person or entity who has the statutory right to use the corridor land.”

The Vice-Chair: Discussion?

Mr Gilchrist: That’s fairly obvious. Again, it won’t do anything to stand in the way of the primary use of those lands.

The Vice-Chair: I will now put the question.

All those in favour? Carried.

Government motion number 27.

Mr Gilchrist: I move that subsection 114.9(5) of the Electricity Act, 1998, as set out in section 23 of schedule A to the bill, be struck out and the following substituted:

“Effect of non-compliance

“(5) A person or entity who fails to comply with this section shall remove the building, structure or equipment when given notice to do so by the Chair of Management Board and shall do so at his, her or its own expense.”

The Vice-Chair: I will now put the question.

All those in favour? Carried.

Government motion number 28.

Mr Gilchrist: I move that part IX.1 of the Electricity Act, 1998, as set out in section 23 of schedule A to the bill, be amended by adding the following section after section 114.9:

“Cessation of use for transmission system, etc.

“114.9.1(1) This section applies if a person or entity who has the statutory right to use corridor land decides that the land is not needed for the purposes of a transmission system or distribution system.

“Duty to notify

“(2) The person or entity who has the statutory right to use the land shall give written notice to the Chair of Management Board that it is not needed for the purposes of a transmission system or distribution system.

“Same

“(3) The notice must contain such information as may be prescribed by regulation and must be given in a manner authorized by regulation.

“Transfer of statutory right

“(4) The Chair of Management Board may require the person or entity to transfer to Her Majesty in right of Ontario the statutory right to use the land described in the written notice.

“Payment for transfer

“(5) No amount is payable for the transfer of the statutory right required under subsection (4).

“Taxes, etc.

“(6) The Land Transfer Tax Act and such other statutes or provisions of statutes or regulations as may be prescribed do not apply with respect to a transfer required under subsection (4).”

The Vice-Chair: Discussion?

Mr Gilchrist: This section will require Hydro One to notify the Chair of Management Board that corridor land is no longer required for a particular transmission or distribution system. The Chair of Management Board can then require Hydro One to convey the statutory right of such land to the Chair of Management Board, and no payment shall be required for such a conveyance.

The Vice-Chair: I will now put the question.

All those in favour of government motion number 28? Carried.

Government motion number 29.

Mr Gilchrist: I move that subsection 114.10(1) of the Electricity Act, 1998, as set out in section 23 of schedule A to the bill, be amended by striking out “shall give

written notice” and substituting “shall give prior written notice”.

The effect of the amendment is that Hydro One is to provide the Chair of Management Board with prior written notice of a disposition by Hydro One of any of its interests in the statutory rights.

The Vice-Chair: I will now put the question.

All those in favour? Carried.

Government motion number 30.

Mr Gilchrist: I move that subsections 114.12(2) and (3) of the Electricity Act, 1998, as set out in section 23 of schedule A to the bill, be struck out and the following substituted:

“Restriction re encumbrances

“(2) The Chair of Management Board shall not make a transfer under subsection (1) if the corridor land is subject to encumbrances created with the consent of Her Majesty in right of Ontario that are greater than those to which it was subject on the effective date, unless the person or entity who has the statutory right to use the land consents to the transfer.

“Restriction re condition of land

“(3) The Chair of Management Board shall not make a transfer under subsection (1) if the condition of the corridor land has been significantly changed since the effective date with the consent of Her Majesty in right of Ontario, unless the person or entity who has the statutory right to use the land consents to the transfer.”

The Vice-Chair: Discussion?

Mr Gilchrist: The Chair of Management Board cannot return any of the corridor land to Hydro One if the crown in right of Ontario has consented to it, as opposed to the current wording, which is “has knowledge of” greater encumbrances to or significant changes in the condition of the land.

The Vice-Chair: I will now put the question.

All those in favour? Carried.

Government motion number 31.

Mr Gilchrist: I move that subsection 114.12(4) of the Electricity Act, 1998, as set out in section 23 of schedule A to the bill, be amended by striking out “May 29, 2002” and substituting “the effective date”.

The Vice-Chair: I will now put the question on government motion number 31.

All those in favour? Carried.

Government motion number 32.

Mr Gilchrist: I move that subsection 114.12(6) of the Electricity Act, 1998, as set out in section 23 of schedule A to the bill, be amended by striking out “May 29, 2002” and substituting “the effective date”.

The Vice-Chair: I will now put the question.

All those in favour? Carried.

Government motion number 33.

Mr Gilchrist: I move that subsection 114.13(1) of the Electricity Act, 1998, as set out in section 23 of schedule A to the bill, be amended by adding at the end “and shall do so within the time specified by the Chair of Management Board”.

The Vice-Chair: Discussion?

Mr Gilchrist: The effect of the amendment is that Hydro One is to provide any information within the time specified by the Chair of Management Board.

The Vice-Chair: I will now put the question.

All those in favour? Carried.

Government motion number 34.

Mr Gilchrist: I move that section 114.14 of the Electricity Act, 1998, as set out in section 23 of schedule A to the bill, be amended by adding the following subsection:

“Exception

“(2) Subsection (1) does not authorize Her Majesty in right of Ontario to deal with corridor land contrary to section 114.6.”

The Vice-Chair: Discussion?

Mr Gilchrist: The purpose of this amendment is to provide clarification that the use of corridor land by Her Majesty the Queen cannot abrogate the primacy of use of the corridor land set out earlier in section 114.6, where it talked about distribution and transmission.

The Vice-Chair: I will now put the question.

All those in favour? Carried.

Government motion number 35.

Mr Gilchrist: I move that clause 114.15(1)(b) of the Electricity Act, 1998, as set out in section 23 of schedule A to the bill, be amended by striking out “May 29, 2002” and substituting “the effective date”.

The Vice-Chair: I will now put the question.

All those in favour? Carried.

Government motion number 36.

Mr Gilchrist: I move that clause 114.15(2)(b) of the Electricity Act, 1998, as set out in section 23 of schedule A to the bill, be amended by striking out “May 29, 2002” and substituting “the effective date”.

The Vice-Chair: I will now put the question.

All those in favour of government motion number 36? Carried.

Government motion number 37.

Mr Gilchrist: I move that clause 114.15(3)(b) of the Electricity Act, 1998, as set out in section 23 of schedule A to the bill, be struck out and the following substituted:

“(b) that are a direct or indirect result of an act or omission by,

“(i) the person or entity,

“(ii) an employee or agent of the person or entity,

“(iii) a person or entity who previously held the statutory right to use the land, or

“(iv) another person or entity who was invited or permitted to use the land by the person or entity who holds, or held, the statutory right to use it.”

The Vice-Chair: Discussion?

Mr Gilchrist: The indemnity of Hydro One shall now include liability for the acts or omissions of persons or entities who previously held the statutory right to use the land, as well as for persons or entities who are invited or permitted to use the land in the future.

The Vice-Chair: I will now put the question on government motion number 37.

All those in favour? Carried.

Government motion number 38.

Mr Gilchrist: I move that part IX.1 of the Electricity Act, 1998, as set out in section 23 of schedule A to the bill, be amended by adding the following section after section 114.15:

“Delegation of powers and duties

“114.15.1(1) The Chair of Management Board may delegate his or her powers and duties under any of the following provisions to any person or entity, subject to such conditions as the Chair of Management Board may impose:

“1. Subsection 114.5(2.1).

“2. Subsection 114.8(1) or (6) or both.

“3. Subsection 114.9(1) or (5) or both.

“4. Subsection 114.12(1).

“5. Section 114.13.

“Assignment of powers and duties

“(2) The Chair of Management Board may assign his or her powers and duties under any of the provisions listed in subsection (1) to any person or entity, subject to such conditions as the Chair of Management Board may impose.

“Effect

“(3) Despite the Executive Council Act, an agreement that is signed by a person or entity authorized to do so by a delegation or an assignment made under this section has the same effect as if the agreement had been signed by the Chair of Management Board.”

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The Vice-Chair: Discussion?

Mr Gilchrist: The purpose of this section is to provide the authority of the Chair of Management Board to delegate and assign the listed powers of the section. Furthermore, any agreement signed has the same power and effect as if signed by the Chair of Management Board.

The Vice-Chair: I will now put the question.

All those in favour of government motion number 38? Carried.

Ms Churley: I oppose it.

The Vice-Chair: Opposed? Carried.

Government motion number 39.

Mr Gilchrist: I move that subsection 114.16(1) of the Electricity Act, 1998, as set out in section 23 of Schedule A to the Bill, be amended by adding the following clauses:

“(0.a) prescribing one or more statutes, provisions of statutes or regulations for the purposes of subsection 114.5(3), 114.9.1(6) or 114.12(7);

“(a.1) prescribing the information to be included in a notice given under section 114.9.1(3) and prescribing the manner in which the notice must be given;”

The Vice-Chair: Discussion?

Mr Gilchrist: The purpose of the amendment is to provide regulation-making powers inadvertently admitted from Bill 58 in relation to the new proposed section 114.9.1.

The Vice-Chair: I will now put the question.

All those in favour? Carried.

Shall section 23 of schedule A, as amended, carry? Carried.

Shall sections 24 through 30 carry? Carried.

NDP motion number 40.

Ms Churley: I move that subsection 31(2) of schedule A to the bill be struck out and that subsection 31(4) of schedule A to the bill be struck out and the following substituted:

“Same

“(4) Sections 1 to 10 and section 30 do not come into force unless they are reaffirmed by an act of the Legislature that receives royal assent after the next general election (as defined in section 1 of the Elections Act).”

The Vice-Chair: Discussion?

Ms Churley: Let me say the NDP is vehemently opposed to privatization, and we have made that quite clear. But given that the government is hell-bent on moving forward—was that unparliamentary?—or seems to be moving forward with privatization, at the very least we should acknowledge the fact that a very credible poll says that, I think, up to 87% of Ontarians do not believe the government has the mandate to move ahead with privatization unless at least going to an election.

So the purpose of this amendment is to at least have something in this bill that reflects the views of the general public who, I know, are opposed to privatization. We know at least 70% and counting—I'm sure it's much higher than that now—are opposed to the privatization of both Hydro One and the generation of our electricity. But because 87% say there should be an election at least and that the government has no mandate to privatize in any way, shape or form at this point, that's why this amendment is here. I just want to make it clear that I am opposed to privatization and the NDP is opposed to the privatization of our electricity. But this would at least make sure the government has to go to the people first before moving forward.

Mr Bryant: We support this motion. Dalton McGuinty and the Ontario Liberals oppose the privatization of Hydro One, the electricity transmission highway. I just want to make it clear: this motion speaks to the issue of democracy and the issue of whether or not the government has a mandate to sell Hydro One. The latest statement from a minister of this government, as of the June 3, 1999, election, was from Minister Wilson, who made it very clear that the privatization of electricity transmission was not going to happen. That made sense because the electricity reform project that was embarked upon in the 1990s and resulted in the select committee recommendations of all three parties was dealing with generation, with making electricity. It was not dealing with transmitting electricity.

As I've said before, to me, for the government to do this would be like, in the middle of a health care debate on what to do with hospitals, the government announced it was going to privatize ambulances. One has got nothing to do with the other or, at the very least, there is no mandate to privatize the ambulances or, in this case, the transmission system.

There was no mandate. There was no discussion. In December last year there was a cabinet meeting, and a decision was made at that time. That was the first we heard that there was going to be privatization of Hydro One. Now what we're doing is not only defying the absence of a mandate by permitting that, but even worse, in my view, we are in fact fettering the discretion and the ability of the Legislature, of members of provincial Parliament, to have a say. If the government is going to take the position that it has a mandate, let it put it to the Legislature and say, “We want to do X with Hydro One”—income trust, strategic sale, IPO or whatever that may be. It's not doing that. It is giving itself the discretion through an order in council to do that, and that's wrong.

We support this motion. I agree with what was just said. The government has got to get a mandate from the people before it disposes of Hydro One in any way, shape or form, other than keeping it public.

Ms Churley: Just to follow up, the New Democratic Party does not distinguish between Hydro One and generation. We did not support the outcome of the royal commission. We made that clear from day one. Although this particular bill is dealing with Hydro One, I just want to make it clear that, overall, the New Democratic Party does not distinguish between the two. We do not believe it's in the interests of Ontarians to privatize either the transmission or generation side.

I think this is an appropriate time to say why. We've stated it many times in the Legislature, but reasons keep piling up as to why we believe all parties—the Liberals and Tories—should support our position on generation as well. Certainly we're not saying, “Stay with the status quo.” We do acknowledge that some changes need to be made, and we have a plan to make those changes happen and, indeed, bring power onto the grid.

But some of the most compelling arguments against the privatization on both sides are from Consumer Reports, which is a very well known consumer magazine in North America. They recently did a report on electricity deregulation. I'm quoting from their report: “Broken promises, deceptive marketing and dreadful service have become accepted business practices in an increasingly Wild West marketplace.” That particular Consumers Reports went on to contradict the many claims by this government, and those who have an interest in getting involved in the market, that it doesn't cause cheaper power but in fact leads to higher rates and less environmental protection. There is no compelling argument whatsoever that the privatization of both transmission and generation is in the interests of Ontarians, and we are opposed to the privatization of both.

Mr Bryant: Can I just speak to that? I'll make it short. I respect the interpretation of the position of the New Democratic Party circa 2002. But in 1997, the position of the New Democratic Party was articulated by Floyd Laughren, who was a representative on the select committee that dealt with electricity reform. He said very clearly, in response to a comment made by the Hon-

ourable Donald Macdonald, that he, on behalf of his party, had no quarrel, given the circumstances with the reform that was necessary, to permit competition in electricity. He clearly said that. I've spoken to that in the Legislature before, and we don't need to go up and down that path again. It was the position of all three parties that in fact we had to move forward with competition to make more electricity in Ontario.

1700

Secondly, there was, I think, a fairly clear statement of support for reform to permit competition in the final dissenting submission of the NDP. But that said, that was then and this is now. In fact, Ms Churley has articulated the position of the third party very clearly. I just wanted to respond to her rebuttal of my response, and hopefully it will be the last, but it may not be, in terms of the discussion on this particular provision.

Ms Churley: Nice try, Mr Chair. I see the Tory members are sitting back and really enjoying this spat, but I would say to the Liberal member that his interpretation of the remarks by Mr Laughren, who was then a member of the New Democratic Party, is somewhat misconstrued and interpreted to the advantage of his particular take on this. But let's go ahead and vote on the amendment before us.

The Vice-Chair: I will now put the question.

Ms Churley: Recorded, please.

Ayes

Bryant, Churley.

Nays

Dunlop, Gilchrist, Gill, McDonald.

The Vice-Chair: I declare the motion lost.

Government motion 41.

Mr Gilchrist: I move that subsection 31(3) of schedule A to the bill be amended by adding at the beginning "Section 23 and".

The Vice-Chair: Discussion?

Mr Gilchrist: The purpose of the amendment is to provide for a later proclamation date of section 23.

The Vice-Chair: I will now put the question.

All those in favour? Carried.

Shall section 31 of schedule A, as amended, carry? Carried.

Shall schedule A, as amended, carry? Carried.

We're now on schedule B. Shall sections 1 through 7 of schedule B carry? Carried.

Government motion 42.

Mr Gilchrist: I move that section 8 of schedule B to the bill be amended by striking out "subsection" and substituting "subsections" in the third line and by adding the following subsection after subsection 78(5.1) of the Ontario Energy Board Act, 1998:

"Same, statutory right to use corridor land

"(5.2) Despite subsection (5), in approving or fixing just and reasonable rates for a transmitter who has a statutory right to use corridor land (as defined in section 114.1 of the Electricity Act, 1998), the board shall apply a method or technique prescribed by regulation for the treatment of the statutory right."

The Vice-Chair: Discussion?

Mr Gilchrist: It just says the OEB will have the ability to prescribe a regulation for the treatment of the corridor lands. It's necessary to ensure that revenues which Hydro One is entitled to recover through its rates are not reduced due to a reduction in asset value resulting from any change in ownership.

The Vice-Chair: I'll now put the question on government motion 42.

All those in favour? Carried.

Shall section 8 of schedule B, as amended, carry? That's carried.

Shall section 9 of schedule B carry? Carried.

Government motion 43.

Mr Gilchrist: I move that subsection 10(7) of schedule B to the bill be amended by striking out "clause" in the second line and substituting "clauses" and by adding the following clause after clause 88(1)(h) of the Ontario Energy Board Act, 1998:

"(i) prescribing, for the purposes of subsection 78(5.2), methods and techniques for the treatment of the statutory right to use corridor land."

The Vice-Chair: Discussion?

Mr Gilchrist: Again, it's simply regulation-making powers given to the OEB.

The Vice-Chair: I will now put the question on government motion 43.

All those in favour? Carried.

NDP motion 44.

Ms Churley: I move that section 10 of schedule B to the bill be amended by adding the following subsection:

"(8) Subsection 88(1) of the act is amended by adding the following clause:

"(i) establishing and governing a renewable portfolio standard that requires electricity generators to produce the prescribed proportion of electricity from renewable resources (as defined by regulation), and providing that the prescribed proportion must not be less than 20% by January 1, 2020;"

The Vice-Chair: Discussion?

Ms Churley: Yes. Although the government claims that by privatizing Hydro and our electricity there will be the opportunity for more renewable energy to come on the grid, in fact environmental groups have told us the opposite. We have seen the opposite. They brag about a windmill and some fiddling around the edges having happened, which I acknowledge has happened, although energy efficiency conservation programs that the NDP brought in have been cancelled and we're further behind. As the bill now stands, there's nothing in it to make sure we do have this renewal portfolio inserted to ensure that it actually happens. I remind the committee of the alternative fuel report, which is a very good report with a

lot of fine recommendations. I sat on that committee, as did some of the members of the government side, and I believe it's incumbent upon all of us, if we do support the recommendations of this, to support this amendment.

Mr Bryant: I support the amendment, although I confess that the particular number of 20% by January 1, 2020—I'm going to support the amendment because I support the concept and setting a goal for a renewable portfolio standard. I'm not sure whether or not the number is perfectly accurate, but in any event that's the nature of what happens when we have to debate motions with a very short timeline, and that's no fault of the New Democratic Party. I would support it because this is an amendment to the original Electricity Act, 1998 that we in fact put forward in 1998. It was put forward by Sean Conway at the time and defeated by the government. I don't know what the government's going to do with this motion now, but we will support this motion. Enough said.

Ms Churley: I just wanted to clarify the number—and it's a good question. It's always difficult to determine timelines and numbers. What we tried to do here was make it as reasonable as possible. Obviously if we could accelerate it, that would be good. But so there's more of a chance that all members of the committee would see it as a reasonable amendment, something that is achievable and could be done—if others want to amend it to make the timeline even tighter, I would certainly support that. But I was hoping that this is reasonable enough that all members of the committee could support it.

Mr Gilchrist: I must say to Ms Churley that I was a little disappointed when I saw this appear in the packet here today. I don't want to turn this into a lecture, but as the person who was the author of the recommendation that was ultimately endorsed by the select committee on alternative fuel sources, let me just say that my disappointment arises from the fact that my original proposal had in fact, as you will recall, prepared a schedule that started literally next year and set an increasing percentage going forward to culminate at 33%.

You will also recall—and I say this for the benefit of Mr Bryant and I say it very sincerely to you—that the considered opinion expressed by yourself and the three Liberal members was that they were not comfortable picking a number out of the air. Ultimately the committee decided upon a process where stakeholders in the industry and the ministries and environmental groups would be invited to prepare a proposal with the timelines that they thought were appropriate.

I obviously support the concept of renewable portfolio standard as strongly as anyone else in this Legislature. I would remind you, though, that we have challenged the ministries and the government to reply to the entire report within 120 days of its tabling. I believe that is the appropriate time to reflect on the entire packet of recommendations. I don't think we should be picking one out in isolation and trying to tack it on here.

I strongly suspect you weren't being mischievous. I suspect—and I'm saying this sincerely to you, Marilyn—

that this is a sincere initiative you've undertaken, but I say, with all due respect, that it would make far more sense that we deal with the whole report as a report and, quite frankly, deal with the final position taken by yourself and all other members of the committee when we approved that report, that a process that included environmental groups and letting them tell us what the percentages should be was the one that we ultimately adopted.

I'm not prepared, for the sake of any expediency here today, to change that position. I want to see what the government's response is, and then I will form an opinion of whether or not they have been true to the spirit of the alternative fuels committee report.

1710

Ms Churley: I appreciate the fact that Mr Gilchrist was going out of his way to not lecture me; however, I believe there was some element of that in his choice of words. I want to say two things about that. We all agreed to compromise in certain areas so we could sign off on this report. There are some elements in the report that I don't fully support, as there are, I'm sure, with you. But in the spirit of compromise—and overall, it's a good report—we all signed off on it.

But I want to make it really clear that my agreeing to represent the New Democratic Party on that committee and signing off on that report in no way—and I make this very clear—compromises my ability as the environment critic and somebody who cares deeply about these issues to now be restricted from taking any opportunity that I can, as I've always done before the alternative fuels committee was set up and will continue to do.

I find it a very difficult premise to accept that because we all signed off on the recommendations in this committee report, I don't have the right to use the opportunities that come before me to further an environmental agenda, which is partly why I'm a legislator. That's my passion; that's what I do. And this is certainly an opportunity here that I have to seize. We have a bill before us which unfortunately leaves out that component, which is very important.

I just want to make it clear to the member that it's indeed not being mischievous; it's indeed a sincere effort to try to get this committee to agree that this is an opportunity we can seize here to take something that needs to be done and insert it into this bill so we can move forward more quickly than we might. We don't know when the government's going to respond, and how many successive governments it's going to take to get some of those up and running—you have to admit, some of the timelines are pretty tough; some are simpler than others.

This is a key component if we want to get alternative green energy on the grid. If we don't start doing this quickly, then it's not going to happen for a very long time, in my view.

I just don't want the member to think that because I signed off on that report I'm not going to be seizing opportunities to further the agenda of getting green

power on the grid. That's what this amendment's all about. I hope, therefore, that you will support it.

Mr Gilchrist: I certainly would never suggest trampling on the rights of any of my colleagues on either side of the Legislature. I would simply offer for your consideration that two of our 141 recommendations have already been adopted in the June 17 budget, 10 days after the bill was tabled, which I think represented some very adroit rewriting of the budget by the finance minister in a very short timeline. But I would also remind you that if you're suggesting that somehow there was compromise, we compromised away from my position on behalf of the government, of 33%. So I'm intrigued that you've picked a lower number than what was on the table already.

Having said that, we've got our respective positions on the table, although I will just say as a final comment, I can assure you that I will be just as keen an observer of the response time taken by the ministries. As you know, the committee exercised its ability to demand a 120-day response to the report, and I'm sure that the ministries will respect that.

The Vice-Chair: I will now put the question on NDP motion number 44.

Ms Churley: Recorded, please.

Ayes

Bryant, Churley.

Nays

Gilchrist, Gill, McDonald.

The Vice-Chair: I declare the motion lost.

NDP motion number 45.

Ms Churley: I move that section 10 of schedule B to the bill be amended by adding the following subsection:

"(9) Subsection 88(1) of the act is amended by adding the following clause:

"(j) establishing and governing a system benefits charge and providing for the purposes to which the revenue from the charge can be put, in accordance with the following specifications:

"1. The regulation may authorize a system benefits charge of not more than 0.3 cents per kilowatt hour to be imposed on all electricity rates.

"2. The revenue from the charge must be paid to a corporation to be established by the regulation, to be known as the Conservation Corporation of Ontario.

"3. The Conservation Corporation of Ontario is permitted to use the revenue to fund incentives for electricity conservation by individuals and by businesses.

"4. The board of directors of the Conservation Corporation of Ontario must be composed of experts in energy conservation who are independent from the crown.

"5. The Conservation Corporation of Ontario must be a crown agency."

The Vice-Chair: Discussion?

Mr Gilchrist: On a point of order, Chair: I hate to do this to Ms Churley, but in two different ways my submission is that this amendment is out of order, first off because it seeks to impose a new charge, fee or tax. It is in violation of the Taxpayer Protection Act.

Interjection.

Mr Gilchrist: No. The amendment would be in order if you had included a line that sought to amend the Taxpayer Protection Act to incorporate. But that is the lesser of the two ways in which it's problematic.

The important one and, I would submit to the Chair and to the clerk, the insurmountable one, is that under standing order 56 there is a requirement that any revenue measure presented that imposes a tax or any other fee, or the spending of any revenue, must be introduced by a minister of the crown through a message from the Lieutenant Governor.

Since this motion seeks to impose directly a new fee of 0.3 cents per kilowatt hour on all electricity rates and furthermore directs where the revenue must proceed, it's therefore out of order pertinent to standing order 56.

The Vice-Chair: Thank you. I'll get legal counsel to speak to that matter.

Ms Laura Hopkins: The amendment is a change to regulation-making power that would authorize the crown to make a regulation creating this charge. A recent ruling of the Speaker would suggest that that's not a money bill provision, and so it's not inappropriate for a person who's not a minister of the crown to propose it as an amendment. So my advice to the committee is that this isn't a money bill motion.

Mr Gilchrist: I guess I would say in response that it is not my reading of this that she is introducing the ability to set a regulation, which was the issue presented to the Speaker; it's that the content of the regulation is that it be designed in such a way as to specify where money comes from and where it goes to. So I don't know whether that ruling is comparable or appropriate.

Having said that, I'm at the discretion of the Chair.

The Vice-Chair: Any further comment?

Ms Hopkins: No.

The Vice-Chair: OK. I declare it in order.

Ms Churley: I appreciate your comments and why you might think that, because I myself, when I was writing this amendment, did check and was told that it was in order because it is through regulation.

The purpose of this is the same reasons I gave for my previous amendment. I'm using this bill as an opportunity to take—although, again, it's not word for word—a recommendation, something that I feel very strongly about. This bill gives us an opportunity to get something happening right away on the system benefits charge, which is, as you would have heard, Mr Gilchrist, from the alternative power providers, very frustrating for them, and until we have a system benefits charge, it's very difficult to proceed.

Again, I understand that it's not word for word, corresponding to the recommendations in the report; however, I'm happy—because this is my preferred

option—to change the wording word for word directly from the report, if that would suit the members better.

1720

Mr Bryant: I just have a question. I think we're all assuming that everybody understands the benefits of a system benefits charge. Maybe you could just talk about that for a bit and why you're putting the number at 0.3 cents and maybe talk a little bit more about the purpose of the provision. You're creating a crown corporation, I take it, with this amendment?

Ms Churley: Yes.

Mr Bryant: Fire away.

Ms Churley: When we did the public hearings on alternative fuels, we had many recommendations about some of the policy changes and financial incentives that needed to be put in place in order for alternative fuels to come on the grid. On page 14 of the report—I'm just trying to find for you the specific recommendation and describe to you why I changed the number here, but I can't at the moment. Just a second.

Mr Gilchrist: Perhaps I could help, Ms Churley. Mr Bryant, is your question just about the philosophy of a system benefits charge? Basically it is a proviso that there is funding in place to create incentives for consumers and businesses to implement green power. So recognizing that right now, particularly in this country, we have few or no indigenous manufacturers of wind turbines, solar arrays or biomass collection facilities, the government, through its utility, would create a fund that would then be allocated, perhaps directly to a consumer, perhaps to lower the rate you pay for green power or as a direct subsidy to a manufacturer to encourage them to set up shop in Ontario to make wind turbines, for example. Basically, it's a fund that everyone is contributing a little bit to that in aggregate would create a lot of money.

Mr Bryant: Just another short question: do I take it the government's concern with this provision is more with the order and less with the concept of the system benefits charge and the creation of a Conservation Corp of Ontario?

Mr Gilchrist: It's very much—again, for your benefit, because I wouldn't expect you to have committed to memory the 141 recommendations—

Mr Bryant: I haven't memorized them yet.

Mr Gilchrist: In the report, we have suggested that something called the Ontario Energy Research Institute be created and funded and it would stand at arm's length. We didn't call it the Conservation Corp of Ontario, but it would have the same effect. It would be responsible for the development of all programs such as the one we're talking about in this amendment.

More to the point, though, I should say—and this was one where I would be prepared to use the word “compromise,” and Ms Churley did the compromising; we had proposed 0.1 cent, and she had proposed 0.3 cents. When it was pointed out that this would equal a \$520-million increase to the electricity bill of the folks in the province of Ontario, the committee, by consensus, recognized that 0.1 cent was probably a more appropriate level to seek

feedback from the government on. So that is what's in the report—0.1 cent.

I will be opposing this motion for a specific and simple reason: if you had \$520 million today, it is highly unlikely you would be able to find enough willing takers today to spend it all. The industry is not mature enough. It couldn't deliver enough wind turbines or solar arrays to spend all that money. So as something longer term, perhaps it's an appropriate course of action for the government to follow. In the short term, I think a far more modest charge would reflect the ability of industry to actually deliver the goods.

Ms Churley: Thank you. I was trying to find the actual recommendation. It was right before my eyes and I couldn't see it. When we were discussing this, it's true that we didn't agree on the number. I could change the wording if you would agree, then, to exactly the recommendation in the book, 0.1 cents per kilowatt hour, if you'd be willing to support that.

Mr Gilchrist: My more substantive concern is—and again, as the author of that specific recommendation I obviously support the concept, as did every other member around the table. We went forward. I'm challenged, though, by the fact that that one in particular is tied to a number of other initiatives; namely, the creation of an entity, the power of that entity, the fact that it's at arm's length and will have separate funding so that it will be able to stand alone to develop these sorts of programs and the fact that it will also complement an initiative that you were keen to see, namely, consumer education for conservation, which we all agreed with.

So even more, perhaps, than the previous amendment we debated, I have great difficulty with this one going forward on its own. I think it's too intrinsically tied to a number of other amendments. I'm quite prepared to put on the record that I agree with a systems benefit charge, I agree with conservation measures, I agree with incentives to promote green power—strongly. I don't believe that the methodology of this stand-alone amendment moves us forward, and I would simply repeat that within the 120 days, 19 of which have already elapsed, we will have an opportunity to reflect on the whole basket of initiatives. I think that would be the appropriate time, Marilyn, to offer criticisms if the government didn't go far enough, or kudos if it did.

Mr Bryant: I would just like to say I find myself reluctantly agreeing with Mr Gilchrist on this one, and it is primarily about the details. I think we all agree on the concept, but with respect to the particular number provided, it sounds like 0.3 cents would be divergent from the recommendations of the committee. I, of course, support those recommendations and support what New Democrats are trying to do here, but I just can't support the particular wording of this amendment.

Ms Churley: I appreciate that, but this bill once again gives us an opportunity to move forward on something that isn't new. It came up before the alternative fuels committee as a piece of the whole pie. But this particular

piece has been kicking around for a very long time, and no action has been taken.

I just want to point out that it sounds like a lot of money, but when you break it down—and again, I didn't have time to prepare properly for this committee and bring the numbers with me, but it's broken down to a very, very small increase on people's rates. It sounds like a lot of money when you put it out there in the millions of dollars—and this coming from a government that's about to privatize and people's rates are going to go through the roof, at the same time as the environment, our air quality, is going to get worse, sounds a bit disingenuous.

I just want to add again for the record that the externalities of the cost to burning coal and other fossil fuels, which we don't take into account when we're talking about the cost of our electricity and the health costs, all of those things, is indeed an upside-down situation. We are actually in a situation now where it costs more to bring on green power, which costs us less as a society, but because of the kind of traditional system we have, where we burn fossil fuels, those externalities aren't taken into account. So I agree that if you're not well versed in this issue, it sounds like a complex issue, but this particular piece is not all that complex in terms of what we need to do to move forward to be able to bring that green energy on.

I appreciate the fact that we don't have the time on this particular bill, which is primarily about protecting the environment, but this is an opportunity to move forward on a very important piece that we're losing here by not supporting it.

The Vice-Chair: I'll put the question on NDP motion 45.

Ms Churley: Recorded vote, please.

Ayes

Churley.

Nays

Bryant, Dunlop, Gilchrist, Gill, McDonald.

The Vice-Chair: I declare the motion lost.

Shall section 10 of schedule B, as amended, carry?
Carried.

Government motion 46, and it's section 11.

1730

Mr Gilchrist: I move that section 88.1 of the Ontario Energy Board Act, 1998, as set out in section 11 of schedule B to the bill, be amended by adding the following definition:

"'contract' means an agreement between a consumer and a retailer of electricity for the provision of electricity or an agreement between a consumer and a gas marketer for the provision of gas."

The Vice-Chair: Discussion?

Mr Gilchrist: It provides a definition of the term "contract."

The Vice-Chair: I will now put the question.

All those in favour of government motion 46? Carried.
Government motion 47.

Mr Gilchrist: I move that subsection 88.8(1) of the Ontario Energy Board Act, 1998, as set out in section 11 of schedule B to the bill, be struck out and the following substituted:

"Voluntary compliance

"(1) Any person against whom the director proposes to make an order to comply under section 88.5 or against whom the director has made an order under section 88.6 or 88.13 may enter into a written assurance of voluntary compliance undertaking,

"(a) to not engage in the specified unfair practice after the date in the assurance in respect of a proposed order under section 88.5 or an order under section 88.6; or

"(b) to not make the false, misleading or deceptive statements after the date of assurance in respect of an order under section 88.13."

The Vice-Chair: Discussion?

Mr Gilchrist: The existing section allows a person, either a gas marketer or electricity retailer, to enter into a written assurance of voluntary compliance undertaking to not engage in the unfair practice that was the subject of a proposed order, or an order for immediate compliance. This amendment allows the marketer-retailer to enter into a written assurance of voluntary compliance undertaking to not make the false, misleading or deceptive statements that are the subject of an order to cease, retract and/or correct them, as ordered by the director of licensing.

The Vice-Chair: Discussion?

Ms Churley: I'm going to oppose this amendment, because this seems to allow for voluntary agreements with the market instead of the enforcement that the NDP would be calling for. Correct me if I'm wrong, Mr Gilchrist, but that's what it does. So I oppose it.

The Vice-Chair: I will now put the question.

Ms Churley: Recorded, please.

Ayes

Dunlop, Gilchrist, Gill, McDonald.

Nays

Churley, Bryant.

The Vice-Chair: I declare the motion carried.
NDP motion 48.

Ms Churley: I move that part V.1 of the Ontario Energy Board Act, 1998, as set out in section 11 of schedule B to the bill, be amended by adding the following section after section 88.8:

"Transition: cancellation of certain contracts

"88.8.1(1) This section applies with respect to a consumer,

“(a) who has signed a contract with a retailer of electricity on or after January 1, 1999 and before the day on which the Reliable Energy and Consumer Protection Act, 2002 receives royal assent for the supply of electricity; and

“(b) who uses less than the amount of electricity prescribed by regulation for the purposes of this section.

“Same

“(2) The contract described in clause (1)(a) is cancelled 60 days after the Reliable Energy and Consumer Protection Act, 2002 receives royal assent unless the consumer reaffirms it in writing before the 60-day period expires.

“Regulations

“(3) The Lieutenant Governor in Council may make regulations prescribing an amount of electricity for the purposes of subsection (1).”

The Vice-Chair: Discussion?

Ms Churley: This makes the bill retroactive. When the door-to-door salesmen first went out there, people had absolutely no way of comparing apples to apples. That has been pointed out regularly and I think we would all agree with that. Don Dewees, a very knowledgeable person who is an economist, helped put together the market rules. He's quoted as saying that last fall, when somebody came to his door, he couldn't make a reasonable decision based on what he was told at the door and the lack of information out there then.

There are up to a million people who signed contracts previously. Not all of those door-to-door salespeople were bad apples, but we know that there were a lot of con artists out there who misled people. But even for the honest players, the information that was available to give people at the door was not adequate for people to make reasonable decisions, so they're stuck.

Again, Howard Hampton has raised this in the House on many occasions. We appreciate the fact that the government is finally coming forward with a consumer protection amendment to this bill, but it doesn't deal with all of those people—many, many thousands, up to a million people—who have been either deliberately scammed and ripped off or, because the information wasn't available to them at the door, signed contracts that weren't reasonable. They're now stuck with those. Something needs to be done to help those people.

I understand the government's concern about doing such a thing retroactively, particularly to those honest players out there. But we have to think of the consumers and the ratepayers first, and the fact that they signed deals without all the facts before them. There's nothing in place to protect them after the fact.

The Vice-Chair: I will now put the question on NDP motion number 48.

All those in favour? Opposed? Defeated.

Ms Churley: I meant to ask for a recorded vote on that. Could I have unanimous consent, please?

The Vice-Chair: Certainly. A recorded vote on NDP motion number 48.

Ayes

Bryant, Churley.

Nays

Dunlop, Gilchrist, Gill, McDonald.

The Vice-Chair: The motion is defeated.
Government motion number 49.

Mr Gilchrist: I move that section 88.9 of the Ontario Energy Board Act, 1998, as set out in section 11 of schedule B to the bill, be struck out and the following substituted:

“Written copy of contract

“(1) If a retailer of electricity or gas marketer enters into a contract with a consumer, the retailer of electricity or gas marketer shall deliver a written copy of the contract to the consumer within the time prescribed by regulation.

“Contract ceases to have effect

“(2) If a gas marketer or retailer of electricity fails to deliver a written copy of the contract in accordance with subsection (1), the contract ceases to have effect.

“Need to reaffirm contract

“(3) If a contract has been delivered to a consumer in accordance with subsection (1), the contract ceases to have effect unless it is reaffirmed by the consumer in accordance with this section before the 31st day following the day on which the written copy of the contract is delivered to the consumer.

“Consumer to take steps to reaffirm

“(4) A consumer may only reaffirm a contract following the 14th day after a written copy of the contract is delivered to the consumer in accordance with subsection (1) and may only do so by taking such steps as are prescribed by regulation.

“Effect of reaffirmation

“(5) A consumer who has reaffirmed a contract in accordance with subsection (4) may not give notice under subsection (6) to not reaffirm the contract.

“Contract not reaffirmed

“(6) The consumer may give notice to not reaffirm the contract in accordance with the regulations at any time before the 31st day following the day on which the written copy of the contract is delivered to the consumer.

“Application of subs (1) to (6)

“(7) Subsections (1), (2), (3), (4), (5) and (6) apply with respect to contracts entered into on or after the day on which this section comes into force.

“Renewal or extension of contract

“(8) A contract with a consumer may be renewed or extended only in accordance with the regulations.

“Application of subs (8)

“(9) Subsection (8) applies to the renewal or extension of any contract that would, if not renewed or extended, expire after subsection (8) comes into force.

“Contract ceases to have effect

“(10) A contract ceases to have effect on a day prescribed by regulation or determined in accordance with the regulations,

“(a) if the contract is not delivered to the consumer in accordance with subsection (1);

“(b) if the contract is delivered and the consumer does not reaffirm the contract in accordance with subsection (4); or

“(c) if the contract is delivered and the consumer gives notice not to reaffirm the contract in accordance with subsection (6).

“No cause of action

“(11) No cause of action against the consumer arises as a result of a contract ceasing to have effect under this section.

“Return of prepayment

“(12) Within 15 days after a contract ceases to have effect pursuant to this section, the retailer of electricity or gas marketer shall refund to the consumer any amount paid under the contract before the day the contract ceased to have effect in respect of electricity or gas that was to be sold on or after that day.

“Consequence of contract ceasing to have effect

“(13) If a contract respecting gas ceases to have effect under this section, the consumer has no further obligations as of the day prescribed by regulation or determined in accordance with the regulations under that contract or any agreement entered into by the gas marketer as agent or broker for the consumer for the provision of gas.

“Same

“(14) If a contract respecting electricity ceases to have effect under this section, the consumer has no further obligations as of the day prescribed by regulation or determined in accordance with the regulations under that contract or any agreement entered into by the retailer of electricity as agent or broker for the consumer for the provision of electricity.

“No cause of action

“(15) No cause of action against the consumer arises as a result of the operation of subsection (13) or (14).”

The Vice-Chair: Discussion?

1740

Mr Gilchrist: We did indeed listen. We have in fact heard the stories of inappropriate sales behaviour that has taken place in a limited fashion across this province. The member opposite talked about the hundreds of thousands of contracts that have been signed, and there's no doubt that a small percentage of those have given rise to complaints that have been registered with the Ontario Energy Board. It has to be stated that over and above what we are proposing to add as a consumer bill of rights, there are already existing consumer protections and, more to the point, extraordinary powers given to the Ontario Energy Board to pursue those who would perpetrate inappropriate sales behaviour and activities.

To date, we know that there have been two retailers fined for their practices. I would note for the record that in one case they sold their company. In the other case they have discontinued all door-to-door and telephone sales practices and will rely solely on written correspondence that will allow consumers time in a calm and measured way, and in the privacy of their own home, to

take time to research the issue and come to an informed conclusion before executing any contract.

What this bill does, of course, is quite unprecedented. Unlike when you signed up for cable TV, your telephone, your newspaper subscription or even when you took a mortgage on your house, and you were not required to re-execute the contract, we are suggesting, in response to the unfortunate situation of a few bad apples spoiling it for everyone else, that consumers will be required to reassert their interest in moving away from their local utility. They will have to do it in a positive way. This is not a negative option. I think you will see elsewhere that it's our intention to make the process as easy as possible for the consumer and the retailer in terms of transmitting that confirmation.

At the heart of this amendment is the belief that certainly now in a new marketplace there have been demonstrations of inappropriate sales behaviour. The government is not happy with that. We will not tolerate that. We will set a high standard. I challenge any member to find any other sales contract that is subjected to such extraordinary consumer protection. It is in that spirit that we are proposing the amendment I have just read.

Ms Churley: To understand this, you can't change your mind after reaffirming the contract even if it's still within the 31 days? Within that 31-day period you can't change your mind?

Mr Gilchrist: Are you asking about once you have said yes a second time?

Ms Churley: Yes. I thought there were 31 days—“before the 31st day following the day on which the written copy”—after reaffirming. Within that 31 days in the contract, I would think you would still be able to change your mind.

Mr Gilchrist: I guess if you were at all in doubt, you should wait till the last possible minute to retransmit your approval. You have to draw the line somewhere. In fairness to the companies, the moment they have your reaffirmed contract, they will go out and forward-buy electricity on your behalf. At some point it has to be stated that consumers have responsibilities as well as rights.

Ms Churley: I understand. I wanted to ask that question. I hear what you're saying, but I disagree with you. So I will oppose that.

Mr Bryant: Just a question to the government. The way this amendment was presented—and correct me if I'm wrong—was as if it was brought in to provide greater consumer protection. I'm talking about this government motion. In fact, it seems to me that this government motion is responding to the concerns raised by the retailers who came in and provided submissions to this committee; in effect, appeasing their concerns with respect to consumer responsibilities. In that sense it seems to me that it's a withdrawal of the government from consumer protection, not a motion that in fact will increase consumer protection. But I'll let Mr Gilchrist respond.

Mr Gilchrist: I would say, having had the opportunity these last few days in committee to hear the positions expressed by retailers, I don't think this amendment in any way appeased the concerns they raised. I'll be very honest with you: the next amendment does facilitate the transmission of your information back and forth to take advantage of modern technology. If you want to consider that some kind of sop, I submit to you it cuts both ways. I don't believe you will find that retailers see this amendment as having been authored by their interventions.

The Vice-Chair: I will now put the question on government motion 49.

Ms Churley: A recorded vote.

Ayes

Dunlop, Gilchrist, Gill, McDonald.

Nays

Bryant, Churley.

The Vice-Chair: Carried.

Government motion 50.

Mr Gilchrist: I move that subsection 88.11(2) of the Ontario Energy Board Act, 1998, as set out in section 11 of schedule B to the bill, be struck out and the following substituted:

"Means of delivery

"(2) The notice of cancellation may be given to a gas marketer or retailer of electricity by any means that provides evidence of the date on which the consumer delivered or sent the notice including personal service, registered mail, courier or fax."

The Vice-Chair: Discussion?

Mr Gilchrist: I think it's self-explanatory.

The Vice-Chair: I will put the question on government motion 50.

All those in favour? Carried.

Government motion 51.

Mr Gilchrist: I move that subsections 88.11(4) to (6) of the Ontario Energy Board Act, 1998, as set out in section 11 of schedule B to the bill, be struck out and the following substituted:

"Effect of cancellation

"(4) If a contract respecting gas is cancelled pursuant to this part, the cancellation takes effect on a day prescribed by regulation or determined in accordance with the regulations, and the consumer has no further obligations as of that day under that contract or under any agreement entered into by the gas marketer as agent or broker for the consumer for the provision of gas.

"Retailer to ensure reading of consumer's meter

"(5) If a consumer gives notice of cancellation under subsection (2) with respect to a contract for the provision of electricity, the retailer of electricity shall promptly notify the distributor that the contract has been cancelled and the distributor shall read the consumer's electricity meter within the period prescribed by regulation.

"Retailer responsible for additional costs

"(6) The retailer of electricity is responsible for the payment to the distributor of any additional costs that are incurred by the distributor to ensure compliance with subsection (5).

"Same

"(7) If a contract respecting electricity is cancelled pursuant to this part, the cancellation takes effect on a day prescribed by regulation or determined in accordance with the regulations, and the consumer has no further obligations as of that day under that contract or under any agreement entered into by the retailer of electricity as agent or broker for the consumer for the provision of electricity.

"Same

"(8) No cause of action against the consumer arises as a result of the cancellation of a contract under this part or as a result of the operation of subsection (4) or (7).

"Return of prepayment

"(9) Within 15 days after a cancellation takes effect under this section, the retailer of electricity or gas marketer shall refund to the consumer any amount paid under the contract before the day the cancellation took effect in respect of electricity or gas that was to be sold on or after that day."

The Vice-Chair: Discussion?

Mr Gilchrist: This agreement makes some pretty simple changes. The word "contract" is changed to a more general term, "agreement", and subsections (5) and (6) provide that when a consumer gives notice to cancel the contract due to a contract not having the required information, the next reading of the meter, which effectively terminates the supply of electricity on the contract, will not be unduly delayed.

The Vice-Chair: I will now put the question.

All those in favour of government motion 51? Carried.

Shall section 11 of schedule B, as amended, carry? Carried.

Shall sections 12 through 17 carry? Carried.

Government motion 52, on section 18.

Mr Gilchrist: I move that clauses 127(1)(j.6) and (j.7) of the Ontario Energy Board Act, 1998, as set out in section 18 of schedule B to the bill, be struck out and the following substituted:

"(j.6) governing the reaffirming or not reaffirming of contracts under Part V.1;

"(j.7) for the purposes of Part V.1, prescribing the day or the method of determining the day,

"(i) on which a contract ceases to have effect,

"(ii) on which a consumer has no further obligations if a contract ceases to have effect,

"(iii) on which the cancellation of a contract takes effect;

"(j.8) governing the time within which a copy of a contract is to be delivered under section 88.9;

"(j.9) governing the period in which a distributor is to read a consumer's electricity meter under subsection 88.11(5);

“(j.10) governing the renewal or extension of contracts under Part V.1;”

Simply, the amendment makes changes to the regulation-making powers given to the Lieutenant Governor in Council under the act.

The Vice-Chair: I will now put the question.

All those in favour of government motion 52? Carried.

Shall section 18 of schedule B, as amended, carry? Carried.

Shall section 19 of schedule B carry? Carried.

Shall schedule B, as amended, carry? Carried.

Shall sections 1 through 5 of schedule C carry? Carried.

Government motion 53.

Mr Gilchrist: I move that section 6 of schedule C to the bill be amended by adding “Subject to subsection (2)” at the beginning.

That simply reflects the later proclamation date.

The Vice-Chair: I will now put the question.

Shall government motion 53 carry? Carried.

Government motion 54.

Mr Gilchrist: I move that section 6 of schedule C to the bill be amended by adding the following subsection:

“Same

“(2) Subsection 1(1) comes into force on a day to be named by proclamation of the Lieutenant Governor.”

The Vice-Chair: Discussion? I will now put the question.

Shall government motion 54 carry? Carried.

Shall section 6 of schedule C, as amended, carry? Carried.

Shall section C, as amended, carry? Carried.

Shall the title of the bill carry? Carried.

Shall Bill 58, as amended, carry?

Ms Churley: A recorded vote.

Ayes

Dunlop, Gilchrist, Gill, McDonald.

Nays

Bryant, Churley.

The Vice-Chair: Carried.

Shall I report the bill, as amended, to the House? Agreed.

That being all the business for the day, I declare this meeting adjourned.

The committee adjourned at 1751.

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STANDING COMMITTEE ON GENERAL GOVERNMENT

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Mr Dave Levac (Brant L)

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Mr Michael Bryant (St Paul's L)

Mr Raminder Gill (Bramalea-Gore-Malton-Springdale PC)

Also taking part / Autres participants et participantes

Clerk / Greffière

Ms Anne Stokes

Staff /Personnel

Ms Laura Hopkins, legislative counsel



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Third Session, 37th Parliament

Assemblée législative de l'Ontario

Troisième session, 37^e législature

Official Report of Debates (Hansard)

Monday 7 October 2002

Journal des débats (Hansard)

Lundi 7 octobre 2002

Standing committee on general government

Emergency Readiness Act, 2002

Comité permanent des affaires gouvernementales

Loi de 2002
sur l'état de préparation
aux situations d'urgence



Chair: Steve Gilchrist
Clerk: Tonia Grannum

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LEGISLATIVE ASSEMBLY OF ONTARIO

ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

STANDING COMMITTEE ON
GENERAL GOVERNMENTCOMITÉ PERMANENT DES
AFFAIRES GOUVERNEMENTALES

Monday 7 October 2002

Lundi 7 octobre 2002

The committee met at 1554 in committee room 1.

SUBCOMMITTEE REPORT

The Chair (Mr Steve Gilchrist): Good afternoon. I call the standing committee on general government to order for the purpose of dealing with Bill 148, An Act to provide for declarations of death in certain circumstances and to amend the Emergency Plans Act.

The first order of business will be the report of subcommittee.

Mr Norm Miller (Parry Sound-Muskoka): I'd like to move the subcommittee report.

Your subcommittee met on Monday, September 30, 2002, to consider the method of proceeding on Bill 148, An Act to provide for declarations of death in certain circumstances and to amend the Emergency Plans Act:

(1) That the committee meet on Monday, October 7, 2002, to hold public hearings on Bill 148, An Act to provide for declarations of death in certain circumstances and to amend the Emergency Plans Act.

(2) That clause-by-clause consideration of Bill 148 commence no later than 5 pm on Monday, October 7, 2002.

(3) That amendments to Bill 148 be received by the clerk of the committee by Friday, October 4, 2002, at 5 pm.

(4) That advertisements be placed on the OntParl channel and the Legislative Assembly Web site and a press release be distributed to English and French papers across the province. The clerk of the committee is authorized to place the ads immediately.

(5) That the caucus offices of the three parties provide the clerk of the committee with lists of witnesses to be scheduled for public hearings on Bill 148 by Friday, October 4, 2002, at 3 pm. The clerk is authorized to start scheduling witnesses as soon as lists are received. If there are more witnesses wishing to appear than time is available, the clerk will consult with the Chair who will make decisions regarding scheduling.

(6) That witnesses on Bill 148 be given a deadline of Friday, October 4, 2002, at 3 pm to request to appear before the committee.

(7) That the deadline for written submissions on Bill 148 be Friday, October 4, 2002, at 5 pm.

(8) That witnesses be offered 10 minutes in which to make their presentations on Bill 148.

(9) That there be a maximum of one hour debate split equally between the recognized parties.

(10) That the clerk of the committee, in consultation with the Chair, be authorized prior to the passage of the report of the subcommittee, to commence making any preliminary arrangements necessary to facilitate the committee's proceedings.

The Chair: Further debate?

Mr Dave Levac (Brant): I would move an amendment to the report, that in section (3) we strike out "Friday, October 4, 2002, at 5 pm" and replace it with "Monday, October 7, 2002, at 11" in order to receive a motion that was late.

The Chair: Further debate?

Mr Peter Kormos (Niagara Centre): I'm inclined to indicate that I'm going to agree with the amendment. However, I feel compelled to vote against the report because it was premised on us starting at 3:30. It's nobody's fault we didn't start at 3:30. We're required, on the basis of the report, to go to clause-by-clause at 5. That means somebody who went to great trouble to come here is going to get squeezed out.

The Chair: Seeing no further debate, I'll first put the question on the amendment proposed by Mr Levac. All those in favour?

Mr Kormos: Recorded vote.

The Chair: Mr Kormos has asked for a recorded vote.

Ayes

Colle, Dunlop, Levac, Miller, Stewart, Wood.

Nays

Kormos.

The Chair: That is carried. When I mentioned that was the first order of business, it should actually have been the second. Our first order of business should be to welcome Ms Tonia Grannum as the new clerk of the committee.

Applause.

Mr Levac: Let the record show applause.

The Chair: Yes. I'm sure most members of the committee have served with Tonia and I'm sure we will be ably served by her in this committee. Welcome aboard.

EMERGENCY READINESS ACT, 2002

LOI DE 2002

SUR L'ÉTAT DE PRÉPARATION
AUX SITUATIONS D'URGENCE

Consideration of Bill 148, An Act to provide for declarations of death in certain circumstances and to amend the Emergency Plans Act / Projet de loi 148, Loi prévoyant la déclaration de décès dans certaines circonstances et modifiant la Loi sur les mesures d'urgence.

ONTARIO PROFESSIONAL
FIRE FIGHTERS ASSOCIATION

The Chair: The first deputation will be from the Ontario Professional Fire Fighters Association. I wonder if they'd come forward to the witness table. Good afternoon. I'll just remind you that you have 10 minutes for your presentation. If you'd be kind enough to introduce yourself for the purpose of Hansard.

Mr Ron Gorrie: My name is Ron Gorrie and I'm privileged to be the executive vice-president of the Ontario Professional Fire Fighters Association. Thank you for the opportunity to present the position of the 9,000 professional career firefighters in the province of Ontario.

I wish to state that, as an association, we support the concept of Bill 148 but believe there are some amendments that are required that would strengthen and enhance the concepts put forth by the government.

In announcing the legislation, Minister Turnbull outlined some of the stakeholders involved with delivering emergency services. The members of the Ontario Professional Fire Fighters Association would ask that all stakeholders, as referred to by then Minister Turnbull, be involved in the formulation of emergency plans and that the legislation would make such participation mandatory. All too often the front-line worker is forgotten when plans are being formulated with respect to emergency situations.

1600

The government's press release of December 6, 2001, which is under tab 1, makes many statements regarding the provisions and protections offered by the legislation, and I would like to offer a few brief comments with respect to those.

The press release speaks to consistent standards. The Ontario Professional Fire Fighters Association welcomes a province-wide standard on emergency response and commends the government for adopting such foresight in emergency situations. We do ask though, what standard or standards will be adopted? It's very important to have the correct ones in place.

We believe such standards would have to address the necessary requirements for incident command, communications and response capabilities. These requirements exist already in the form of statutes and standards internationally recognized and developed by the National Fire Protection Association.

We strongly urge the government to adopt and mandate these scientifically based standards created by all stakeholders. These stakeholders include fire chiefs, municipal managers, industry experts, manufacturers, firefighters and many others. NFPA standards, as you're well aware, affect the everyday lives of Ontarians: electrical codes, sprinkler systems, building construction materials and methodologies. It would be the next logical step for the province of Ontario to incorporate NFPA standards respecting emergency responses.

Lists are addressed in the document released in December, and we would further respectfully suggest a simple identification of risks and potential dangers. The creation of a list of responses is not enough. As front-line emergency personnel, my members know the great value of correcting risks that can be corrected in advance of an emergency and the comparative little value of simply having a list of hazards and lists of responses thought to be appropriate. Furthermore, to have a list or directory of those who are called upon in the event of an emergency is of very little value when those on the list are not there when called upon.

Once more, having a list of hazards and responses is not very useful when there are not the resources to put a plan into operation. Responses require that personnel are actually available and not counted twice or three times when they occupy multiple positions of responsibility.

We would respectfully request that when resources are listed as existing, there be a mandated verification process to ensure that they do indeed exist. Most importantly, there must be an obligation on municipalities to produce their plans on emergency situations.

The press release speaks of the suspension of laws. As emergency responders, the members of the Ontario Professional Fire Fighters Association deal with emergencies each and every day. We are compelled to ask of this committee as to the level of emergency situation that would trigger such suspension of laws. Obviously, the situation should be seriously grave in order to trigger and should be better defined in the legislation.

Plans for buildings were mentioned in the press release. This already happens to a much lesser level to fire plans in large buildings. We in the Ontario fire service can testify to the frustration in discovering out-of-date plans, no plans or no building officials available. We would suggest that the legislation make compulsory the development of plans, the maintenance of those plans and the availability of personnel to assist with implementing those plans.

Generally, we suggest amendments that would mandate testing on a full-scale basis of emergency plans once every three years. Mandatory testing of plans would ensure proper evaluation of risk, ensure a plan's appropriateness and, finally, ensure that resources counted upon in a plan are in fact available to be used in the event of an emergency.

Once a risk has been identified, it must be evaluated in a very realistic fashion. The resources required to minimize and correct the risk can then be assigned. If it is

determined that the resources needed are overwhelmed, then it is incumbent on the provincial government to increase resource availability in advance of a disaster. We all know too well the effectiveness of post-disaster legislation and post-disaster resource allocation.

We suggest amendments to call upon funding from the provincial government for a number of reasons. If costs are left as the responsibility of municipal government, then it may happen that necessary planning does not take place due to budget restraints. If costs are left in the municipality's hands, then funds are likely to be stripped from already emaciated emergency response budgets. If costs are left in the hands of municipal government, as time goes on and tax increases are flatlined by municipal councils, the plans made today are not likely to be updated and resources required are also likely to be reduced.

These are the submissions of the Ontario Professional Fire Fighters' Association and are respectfully submitted. We urge that the amendments go forth to enhance public safety.

The Chair: That gives us time for one question. We'll follow the normal rotation pattern and start with Mr Levac.

Mr Levac: Thank you very much for your presentation. I appreciate the work of the professional firefighters in public safety and also in suppression, because sometimes that gets forgotten. That seems to be part of the crux of the problem, and that is, municipalities have been downloaded and there have been various budget constraints. It seems that we're finding more and more communities that are on a list of communities being watched by the fire marshal because of their lack of ability to provide proper service or standards.

A very blunt, quick question: do we need more money from the provincial government for those municipalities to provide that safety and security for our citizens?

Mr Gorrie: A very blunt, quick answer: yes.

The Chair: Actually, that will leave time for a quick one, Mr Kormos; about a minute or a minute and a half.

Mr Kormos: It will be oh so fast and that's oh so rare.

I'm well aware of the firefighters and their struggle with the government to establish universal standards in terms of response time and adequate staffing in response. You're familiar with that. There are scientific studies that come out of the United States, and there's a distinction between rural areas and urban areas.

Would you briefly recite those response times and adequacy of staffing and indicate whether or not the inclusion of those as a minimum standard would have a positive effect on emergency response?

Mr Gorrie: They would have a dramatic effect on emergency response.

NFPA standard 1710 addresses career fire departments—the emergency response times are included and the number of people required on scene in the event of a residential house fire—and further goes on to address that municipal governments are compelled, in order to achieve that standard, to account for more and more

personnel as the situation evolves or as a building is decided to be more than a 2,000-square-foot residential house fire. The response times are four minutes for the first arriving company to arrive on scene and eight minutes for all assigned companies to arrive on scene, 90% of the time.

NFPA standard 1720 speaks to areas that are rural or volunteer departments. The components in 1720 do not have a time frame with respect to arriving on scene. It simply says that once you have sufficient manpower—I believe it's four—on scene in order to conduct an interior fire attack, then such attack must occur within four minutes of the four people arriving on scene.

Standards 1710 and 1720 would go a long way in protecting the residents of the province. They would then be able to measure and know what's available for their protection. Without those standards in place, people in Ontario have no idea what they have. Very recently, the residents of Sudbury were shown at an inquest in Sudbury that they believed they would have four people arriving on scene at a fire, when in fact there was one professional firefighter arriving on scene. This was despite their beliefs for many years.

The Chair: Thank you very much for your comments. We appreciate your coming forward.

I'm afraid we've run out of time, Mr Wood. You'll have to hold your question for the next presenter.

CANADIAN CENTRE FOR EMERGENCY PREPAREDNESS

The Chair: That presentation will be from the Canadian Centre for Emergency Preparedness.

Welcome to the committee. Again, just a reminder: we have 10 minutes for your presentation and any questions.

Mr Adrian Gordon: Thank you for the opportunity of giving this presentation. I'd like to take probably a little less than 10 minutes. I would like to start with a brief introduction, first of all, to the Canadian Centre for Emergency Preparedness, to put into some perspective what I am going to say.

CCEP is an independent, not-for-profit organization that advocates and promotes disaster management principles and practices. Our audience includes individuals, communities and organizations in both government and the private sector. Our advocacy aims to reduce the risk, impact and cost of natural, human-induced and technological disasters. Our objectives are to increase awareness of the growing risks and changing nature of disasters, to promote the need for sound disaster management principles and practices and to disseminate information on the availability of professional expertise and resources, including technology. We're the presenters of the annual World Conference on Disaster Management, which is one of the largest events of its kind in the world, here in Toronto.

1610

Secondly, in my introduction I'd like to mention the traditional process of disaster management or emergency

preparedness. There are basically four steps which you may be aware of. Firstly, mitigation or prevention; secondly, preparedness; thirdly, response; and fourthly, recovery. I must emphasize that the first two, mitigation and preparedness, are a hard sell in normal times, and I will come back to that point in a moment.

Thirdly, the changing nature of both natural and human-induced disasters: We are all aware of the risk of terrorism and I need speak no more on that particular topic. However, I would like to draw attention to global climate change, and in the notes that you have a copy of I have provided a quote from Munich Re, the world's largest reinsurers and their annual report of the year 2000, and secondly, from the Canadian Red Cross, in which both emphasize the growing risk and cost of natural disasters.

I'd like to comment for a moment on the situation of emergency preparedness in Ontario, principally prior to the introduction of the proposed bill and prior to September 11. Ontario is still one of three provinces that does not mandate its municipalities to maintain an emergency plan. In 1999 the government carried out a survey which indicated that 86% of municipalities actually had a plan, but the survey further showed that only 43% had provided any training within the last three years to personnel who had some responsibility for putting those plans in action. Furthermore, only 23% of municipalities had tested their plan within that same period of time, three years. We accept that this is not representative of emergency preparedness in our major cities.

In January 2001 we wrote to the Premier to express our concern with the state of municipal emergency preparedness in the province. Recent emergencies such as the 1998 ice storm, Walkerton, the Toronto snow storm, a series of hazmat incidents—chemical spills and such—and the impact of September 11 clearly showed that emergency preparedness in Ontario was not what it should be.

For years, successive governments had failed to allocate adequate funding and resources for emergency preparedness, which severely constrained the province's ability to respond effectively to widespread disasters. I would have to add here that a similar situation exists in the private sector.

I now turn to our comments on the proposed bill. We strongly support the introduction of the proposed amendments and we have three basic comments.

The bill requires municipalities, ministers of the crown and others to put in place and maintain an emergency management program, and I emphasize the word "program." This, in our opinion, is one of the most important requirements and illustrates the vision and the attention that have been given in drafting the bill. In the private sector, as well as the public, it is not uncommon for organizations to have plans that may satisfy the requirements of regulators, auditors, clients and stakeholders who demand that emergency preparedness plans are put in place and maintained but which, in effect, are little more than binders on a shelf. Bill 148 clearly spells out what an emergency program shall consist of.

Risk assessment is an essential step that ensures that plans are to be based on a clear understanding of the risks involved. This may seem an obvious step but is one that is frequently bypassed or ignored.

Training: I have mentioned it already.

Exercising: we believe that a plan that is not exercised or tested on a regular basis—and we maintain a minimum of once a year—is really no plan at all.

Public education: it's a welcome inclusion. Few Canadians are aware that under Canada's national support plan we are all individually expected to look after ourselves for the first 72 hours during any major disaster.

My second point: the bill gives Emergency Management Ontario the authority to monitor, coordinate and assist in the setting up of these plans.

Third, it requires that a municipal plan shall conform to the next level up.

In conclusion, the Canadian Centre for Emergency Preparedness supports the provisions of the bill, which addresses the inadequacy of the province's emergency preparedness prior to September 11 last year. However, I would like to close by summarizing two of our concerns.

The first is long-term political commitment. I mentioned earlier that mitigation and preparedness are commonly given little attention and even ignored in normal times. It is essential that Emergency Management Ontario be provided with the necessary funding and resources to be able to effectively manage this program. Our concern is that when the perceived level of risk and threats to our way of life declines, funding may be reduced to meet other needs. Were it not for the attacks of September 11, it is highly likely that Canada's largest province would still not be adequately prepared for disasters yet to come.

Our second concern: the focus of emergency preparedness in the province must be based on an all-hazards approach. Public attention is still largely focused on terrorism, which is only a part of the risks we must deal with. The evidence is clear that the threat of both natural and human-induced disasters is increasing, and the potential losses in terms of lives lost or damaged and to the economy must be reflected in our disaster management strategy. I would clarify here that we do not agree with a one-plan-meets-all approach. It is rather the strategy that I'm talking about.

Mr Chairman, members, thank you for the opportunity of giving this presentation.

The Chair: You've used up your time almost to the second. Thank you very much for coming before us here this afternoon. We appreciate your comments.

CITY OF TIMMINS

The Chair: Our next presentation will be from the city of Timmins. Good afternoon and welcome to the committee. If you could, introduce yourself for the purpose of Hansard.

Mr Lester Cudmore: My name is Lester Cudmore. I'm the planning manager for the city of Timmins for

emergencies. I'd like to take a different approach for my talk this afternoon; that is, I'd like to deal with some actual facts, things that have happened in our community, around our community, and show that these are necessary amendments and changes to the Emergency Planning Act that have to go forward. By stalling and waiting, we are endangering a lot of the public. We have to address the issues.

First off, I'd just like to say that my background is that I have 37 years in emergency services. I have 20 years as a volunteer firefighter, so I know and appreciate that side. I have 16 years in the career side. I've been in small business. I have 15 years in industry, and I was also an industrial fire chief and loss control manager. So I understand what's going on in the province and I think I can speak to it.

Our city covers 1,235 square miles. We also have a contract or an agreement with the OPP to assist them in any emergencies along district 15. I've gone as far as 102 miles to an emergency where a train was on its side and fuel oil was running into one of our rivers.

1620

We do what we have to do to protect northern Ontario. As you're all aware, northern Ontario is a resource area. It goes from mining to lumbering; very little manufacturing. But the weather is severe. For those who don't know, we had our first snowstorm in Cochrane last evening and they did close down part of Cochrane. Visibility was nil and the highways were closed. So we are subjected to Mother Nature at all times.

First off, we had emergencies in the city of Timmins in 1960 and 1962. We had floods. It was pretty quiet until 1986, when we dumped 30,000 to 40,000 litres of gasoline down the street. It ran down the sewers, blew up a number of houses, and we found that our emergency plan wasn't very adequate. In fact, it wasn't much good for anything. But we learned fast and we addressed the emergency plans immediately. We didn't go quite far enough, but at least we got something going.

From that time on we just kept going on into incidents—a train derailment in a small community outside the city of Timmins. We have had aviation fuel spilt, caustic soda. We had a large number of train cars on their sides. TransCanada Pipeline had all kinds of pipe on the cars. That was a real eye-opener. I went down there to assist a small community that had absolutely nothing—no plan, nothing, and they were dealing with this particular disaster. There were pipes lifted into high-tension lines. There were people falling into caustic—it blew the top off a truck. Nothing taken away from the small community, but there was nothing there, OK? You've got to remember that a lot of Ontario is in that position, and we have to address that. That's what these amendments are going to do, and I think it's important.

In 1996 we had a major flood in the city of Timmins and it was devastating. One thing about the city of Timmins, if it's not April 1 when we throw gasoline into the sewers, it's the May 24 weekend when we'll have floods or forest fires, when there's nobody in town.

That's an important issue that we have to address, because your emergency plans have to address everything. It doesn't matter; if I'm an emergency planning coordinator or a manager, the plan has to take over and I have to be able to pick up that plan and run with it. I should be able to take that plan and never have walked in the community and be able to handle that disaster.

I like to reflect back to when I was a young man in 1974 going into industry. To become a supervisor, I worked for an American company. They'd take you and put you up in the Northwest Territories; you ran into a snowstorm and you had to operate a mine. That company had the plans together. That company had everything there. You could run that mine if you knew how to read and knew how to delegate. That's what emergency planning is all about. It's a team. It's not the fire service, it's not the police service, it's not any one unit. It's a large composite of different organizations. We've worked with Northern Development and Mines, the Ministry of Natural Resources, the Ministry of the Environment, and the list goes on. We've worked with all these government agencies, and it works well. But you have to have something mandated in the system. There are priorities in all municipalities and unless you have that mandated, we fall behind.

We, as the city of Timmins, do our emergency plan every year. I'm not going to go through a lot of the different emergencies we've had, but last year alone, for example, I assisted Black River-Matheson. In one bad storm we had nine transport trucks collide. Highway 101 shut down, and we had hazardous chemicals on the highway. We went down and helped them, as neighbours, because they did not have anything in place.

We enacted our emergency plan three times last year, once with a flood, once with an emergency forest fire. Also, the city of Timmins is a receiving centre for the James Bay coast. That means that any disaster that happens on the James Bay coast, the people will come down to the city of Timmins and we'll look after them.

That's one thing you have to realize: you can practise all you want, but once you bring the whole picture in and you start dealing with people, and you have to house them, you have to have their medication and everything else, that's where the big picture comes in. We can't lose sight for single organizations; we have to go into that big picture. I think that's what is being brought out now, the big picture. We have to really, really focus on that.

We've had situations where we didn't have enough food up the coast. I had to work with another group to facilitate planes and send food and clothing up the James Bay coast to another receiving centre that couldn't handle it because they didn't have enough food in the town.

I talked to one small community along Highway 11 and asked them what they would do if they had an emergency. The comment was, "We'd take our boats and go up the river." They'd be up the river without a paddle, because where do you go once you're up the river and you can't come out?

That's all across the province, and that's why there is so much concern. That's why I joined the committee, to

make sure the Emergency Plans Act was changed and the amendments were brought forward.

With that, I just ask that we bring this forward as soon as possible, get the training out, do the identification in the communities, and do all those good things that will protect our public.

The Chair: Thank you very much. Again, unless there is about a 30-second question or comment, I appreciate very much your making a presentation before us here today.

Mr Gilles Bisson (Timmins-James Bay): Just for the record, to show to your team and all of the community, on the evacuation of the James Bay coast during the flood: an excellent job. There was not a complaint from anybody from the coast; there was not a complaint from the community. It showed what happens when people come together. Lester, as one of the leaders on that, you did a good job. Thanks.

Mr Cudmore: Thank you, Gilles.

The Chair: Thank you again for coming before us here today.

MINISTRY OF PUBLIC SAFETY AND SECURITY

The Chair: Our next presentation will be from the Ministry of Public Safety and Security. It's good to see you back again. Thank you very much for coming forward.

Dr James Young: Good afternoon. I'm Dr James Young. I'm the Commissioner of Public Security for the province of Ontario. I'd like to talk briefly about the act and the amendments and how they came to be.

In the spring of 2000, following the successful completion of our Y2K remediation, the government of Ontario initiated an extensive review of the state of emergency management in Ontario. To do this comparison, we looked at other jurisdictions in Canada; we looked at the 10 largest American states; we looked at Australia, New Zealand and the United Kingdom. The review, with its recommendations for Ontario's shortcomings, was completed just prior to September 11 of last year.

Following the unfortunate and catastrophic events in the United States, our recommendations were updated based on some of the early lessons from the American experience. Consequently, during the past year, the government of Ontario has taken a range of steps to improve public safety and has adopted a much more proactive approach to emergency management at the municipal and the provincial levels. And it's very important to note that it's consistent with international best practices.

One of the fundamentals of this enhanced approach is the recognition that effective management of emergencies, for all types, requires coordinated, co-operative action on the part of multiple agencies. The key objective then is to reduce, minimize or eliminate where practical isolated, disconnected actions, and to ensure that our preparedness and response stages are well coordinated,

and also to incorporate mitigation and recovery into the overall process of emergency management in Ontario.

Contrary to popular perception, Ontario has a wide range of potential risks. With 12 million people, and seven million of them in the Golden Horseshoe, Ontario has the largest and most concentrated population in Canada. We have a concentration of major rail lines, major highways, and major airports. In recent times, greater than 60% of Canada's road and rail accidents have been in Ontario—the road and rail accidents that involve hazardous products.

We're the largest nuclear jurisdiction in North America, and we have 21 large nuclear reactors. We have greater than 50% of Canada's chemical industry, and we have an extensive but unfortunately aging infrastructure as well. We also live in a complex, technological, social environment. We average greater than 20 tornados every year in Ontario, we have floods, we have problems with forest fires, and we have earthquakes every year. These risk factors do not make Ontario an unsafe place in which to live relative to comparable jurisdictions, but they do create an environment where the public interest requires a more proactive approach to emergency management on the part of all governments, on the part of business and the industrial sector, and on the part of private individuals.

1630

Therefore, with these principles in mind, a new Emergency Management Act, contained within the Emergency Readiness Act, is designed to increase the safety of Ontarians by creating more resilient communities.

I'd be happy to answer any questions.

The Chair: Thank you very much. We'll start with the government members.

Mr Bob Wood (London West): No questions.

Mr Mike Colle (Eglinton-Lawrence): Dr Young, I have a short question. In view of what happened on September 11, one of the things that seemed to be problematic was the radio communication between fire-fighters and emergency response personnel. They had the first attack on the World Trade Center—1993, I think it was—and then they were supposed to update the radio communication. I guess you obviously looked at that in terms of Ontario's possible scenarios. What's the status and are we protected from that?

Dr Young: That's a very good question. It's a very complex issue. There are a number of issues interrelated in regard to the question. The first is the communication within a city core and within big buildings. This has been a problem in large cities throughout the world. As you know, cellphones and communications don't work terribly well in big buildings. There's a lot of work going on, a lot of study, and we're paying attention to that. Fire departments and police departments like Toronto are working to improve that situation.

The second issue in regard to that is the compatibility of the ability to communicate between police and fire and between provincial organizations such as the Ontario

Provincial Police, the ministries of government, the ambulance service and police and fire. We're currently surveying the province. There's a new system being rolled out by the province right now that will link all the provincial ministries and the OPP. We're intending to build bridges between that system and municipal systems in order to facilitate that kind of communication.

Part of the problem one runs into when something happens at this point is that many cities have recently bought communication systems for police or fire or both, and those may or may not be instantly compatible with the province's systems. The system the province is building will be available to everyone, but it's going to take time for them to migrate over because they've already spent money in the recent past. It's an issue we're taking very seriously. We are looking at it, and it is one of the big lessons.

The other thing I'd say on communication is that communication has to exist at a personal level between firefighters, police officers, ambulance people and the leaders of those people. We can improve, are improving and are working very hard in that regard in Ontario. Just this morning I opened the conference for the CBRN teams and stressed that very communication. Those teams are made up of fire, police, medical personnel etc.

The Chair: Brief question, Mr Levac.

Mr Levac: Your building is the headquarters for the coordinated efforts of emergency response and it's on the 19th floor, I believe it is.

Dr Young: That's our secret location, that's right.

Mr Levac: OK, that's fine. Nothing goes outside of this room anyway. Nobody is paying attention.

I have mentioned in one of my deputations that I thought it was not quite appropriate to have a location there. I understand there is some work being done. Could you fill us in on that?

Dr Young: Certainly. Like New York, which had their emergency centre in the World Trade Center, it occurs to us after September 11 that the 19th floor of a downtown high-rise is probably not the best place. It seemed like a good idea when the space was available at the time and we could convert it for low cost.

We're working right now with the federal government and we're hoping to move to a location and to co-locate with the federal government. In the interim, until that's been done, we have created a backup emergency centre in a different part of the city in an undisclosed location. So we've taken an interim step as well, but we are really looking forward to co-locating with the federal government, in the near future, we hope.

Mr Kormos: I'm advised there are fire services across the province that are continuing to raise complaints even about newly purchased communications systems in terms of their adequacy and simply not working. Can you confirm whether or not that's the case?

Dr Young: I can't confirm with certainty, because we're beginning that work and I have someone working on it. The history, from my own experience over the years in this area in the province, is that communication,

because of the geography of Ontario, has always been a serious problem. Certainly I'm familiar with the problems the OPP has had over the years in trying to build a system, and that's one of the reasons the new telecom system is being built. So we are looking at it. We're surveying it, and when the provincial system is fully up and running, any municipality will be able to buy that service and buy into that system. In fact, given the events of September, our hope is that more and more will buy in, and that system should be robust enough to overcome many of those difficulties.

The Chair: Loath as I am to ever enter into the debate, I'd simply leave you with a question. I hope co-ordination between emergency service agencies, not just within any one, is something else you'll be looking at, because we certainly are aware that that's a problem here in Toronto and in many other communities across the province.

Dr Young: It's a major priority, Mr Gilchrist, for us to make sure that all of the agencies—they're training together, they're setting common standards. There have been multiple meetings at all levels of the province and municipalities to work together, because that was a large problem in New York as well.

The Chair: Thank you very much. We appreciate your comments here today.

ONTARIO ASSOCIATION OF POLICE SERVICES BOARDS

The Chair: Our last presentation will be from the Ontario Association of Police Services Boards. Good afternoon and welcome to the committee. Perhaps you can just introduce yourselves for the purpose of Hansard.

Mr Chris Moran: Chair Gilchrist, Vice-Chair Miller, members of the standing committee, my name is Chris Moran and I am the president of the Ontario Association of Police Services Boards. I have with me Mrs Barbara Hume-Wright, who is our executive director. Our association is known as the OAPSB, just to make it a little shorter.

I am also the chair of the Bradford West Gwillimbury/Innisfil Police Services Board, which is the South Simcoe Police Service. We are a not-for-profit organization, funded through membership fees paid by police services boards that support the OAPSB's pursuit of excellence in civilian police governance. The association has been in existence for over 40 years and it represents the section 31 and section 10 boards defined under the Police Services Act. We have well over 120 member boards from across the province, representing services as small as Blind River, as large as the Toronto Police Service and almost everything in between.

As I am sure you are all aware, police services boards are responsible for the provision of police services and for law enforcement and crime prevention in the municipalities they serve and, as such, each board must ensure their community is policed adequately and that any and all police standards issued by the Ministry of Public

Safety and Security are complied with. Police services have a very important role to play in responding to emergency situations, along with other first responders.

Adequacy standards of the Police Services Act require the police chief to prepare an emergency plan for the service to outline procedures to be followed in the event of any emergency. The Ministry of Public Safety and Security is also in the process of developing guidelines for police services boards and police chiefs to follow in the event of a terrorist incident. As you can see, there is a direct relationship between what is expected of a municipality in this proposed legislation and how it will impact the police service in terms of resource requirements in conjunction with other legislation.

1640

On behalf of the OAPSB and its members, I appreciate this opportunity to make a presentation to the standing committee on Bill 148, An Act to provide for declarations of death in certain circumstances and to amend the Emergency Plans Act.

The Association recognizes that this legislation speaks to the requirement for all municipalities to have an emergency management program that consists of four parts: an emergency plan; training programs; exercises for employees; and public education—and anything else of course that may be determined by regulation. The municipality must, in developing its emergency plan, identify any potential risks to public safety, including particular facilities or parts of infrastructure.

The OAPSB strongly supports the need for an emergency management program. This is important for the safety and security of our communities and that of our police officers and other first responders to emergency situations. Having a plan, training for the plan and carrying out exercises under the plan would all work well together to help ensure we are prepared for any emergency. But we do note that the legislation requires all municipalities to develop such plans and then requires that all area municipal plans conform with the upper-tier emergency plans. This will create unnecessary duplication, and I would encourage the committee to consider some flexibility that would enable municipalities and emergency services to work collaboratively together to develop emergency management programs on a scale and size appropriate to their particular situation. In this scenario, the plans would require a mechanism to permit escalation of a response from local, to regional, to provincial and then to the federal level, if necessary.

As an example, it might be possible, based on the risk assessment in a county, for there to be one plan at the county level in which all area municipalities participate, with a coordinated emergency services plan and response that escalates, depending on the location, type and scale of the emergency. Whether prescriptive or flexible, either approach has its difficulties with coordination of services between police, fire, public works, hydro, gas and any other of the various agencies, difficulties that we hope would be addressed as the emergency plans are tested, and through practice.

However, a less prescriptive approach that encourages and supports collaboration and cooperation would be preferable. It would enable efficiencies in training, in carrying out exercises and in developing public education materials and programs. It would also provide a wider resource base for the sharing and deployment of specialized equipment. It might also make the job that Emergency Management Ontario has to undertake easier in assisting in the development of and ensuring the co-ordination of municipal plans as there would likely be fewer plans.

The proposed legislation requires mandatory training programs within the context of every municipal emergency management program. As first responders, this requirement is critical to the safety of our police officers and ultimately the community, but we must consider the most effective and efficient approach, which would be something on a much wider scale than municipality-by-municipality or service-by-service. The legislation should be flexible enough to ensure that collaboration and contracting for training is possible. It may even be the preferred method, as the opportunity for training with colleagues from neighbouring services may in fact result in better coordination and cooperation at the time of an emergency.

The committee should also be aware that police services already have significant mandatory training requirements for a wide range of other activities, and while training is vital for the protection and safety of our officers and the community, any new mandatory training must be considered within the context of all the other mandatory training faced by police services today. Training takes considerable time and money from a police services budget.

The OAPSB also has concerns about the requirement for every municipality to have a public education program and would suggest that if municipalities are allowed to group together in one plan, they can share a public education plan as well. General emergency preparedness information might be better developed and supplied through Emergency Management Ontario and circulated and promoted at both the provincial and local levels.

The OAPSB would encourage a consultative approach on the development of any regulations that may come forward. This would include, of course, all representatives from first responders and municipalities.

This legislation has a provision for the Lieutenant Governor in Council to designate a municipality to address a specific type of emergency in its emergency plan. If this provision is applied, it should also require that the province provide the necessary resources to the municipality and its emergency services to develop or amend the plan as well as support its implementation.

The legislation also provides for the Lieutenant Governor in Council to temporarily suspend legislative provisions if an emergency exists. The OAPSB supports this provision if it would facilitate the quick response to an emergency situation.

The Declarations of Death Act, 2001, is attached to the Emergency Response Act as a schedule. This legislation allows an interested party to apply to a court for a declaration of death for someone who has disappeared in circumstances of peril. The OAPSB understands why such an amendment is being proposed, but there could be significant resource implications on police services that may receive many FOI requests from parties seeking documentation to support a court application. The possibility of these requests should be kept in mind, and the committee and the ministry should consider how best to manage the massive amount of documentation that might be expected following a major emergency.

The association would be remiss if we did not also provide brief comment on the increasing responsibilities being placed upon police services and the commensurate increase in required funding from the property tax base. This is yet one more area where the province is looking to its municipal partners and their agencies, boards and commissions to take on a greater role. It is imperative that the province provide adequate funding to support those requirements.

When considering this legislation, the OAPSB has done a scan of some of the other initiatives of the government that relate directly to this legislation. This includes the expanded role of Emergency Management Ontario and the need to ensure it is adequately resourced to be able to fulfill its expanded mandate. We suggest that doubling that budget that's already inadequate may not be enough. The need for expanded training capacity should be done through the Ontario Police College, and there's a need for the addition of curriculum to address the training requirements of this legislation. This approach would be the most cost effective for ensuring police services are adequately trained.

The appropriate coordination, role and training of volunteers: the Ministry of Safety and Security recently announced the CERV program and modest funding to support municipal involvement in training volunteer emergency response teams, about which we have some reservations.

Finally, we note the relationship of this legislation to the work the government is trying to carry out on counter-terrorism through the development of guidelines and in agreements and protocols with the two senior levels of government, as well as protocols with other jurisdictions outside Ontario.

I would like to close by stating as clearly as possible that the OAPSB fully supports the intent of this legislation. Planning and preparedness in the event of an emergency is already a required activity of the police chief and the police services board, and it is critical to the safety and security of our communities. In making this presentation, it is our desire to encourage the government to find the most cost-effective and efficient means to that end.

On behalf of the OAPSB, I would like to thank you once again for allowing me to make this presentation.

The Chair: Thank you very much for coming before us. That has used up just over 10 minutes, but we very much appreciate your comments.

With that, members of the committee, we could either engage in up to 10 minutes of debate or we could move into clause-by-clause and say all the same debate in that process. I see Mr Kormos nodding his head. The latter is fine? Then let's start with clause-by-clause, if we may. You should all have your package of amendments. We'll insert the one the Liberals delivered this morning. It will be after page 5.

As the first order of business, are there any amendments or comments to sections 1 through 3? Seeing none, I'll put the question. Shall sections 1 through 3 carry? Sections 1 through 3 are carried.

1650

Mr Kormos: On a point of order, Chair: Did you really want to do that in view of the amendments the government has filed with respect to the schedule?

The Chair: I said section. The schedule is after we debate the actual sections of the bill.

Mr Kormos: Yes, but if you take a look at section 1, we've enacted the schedule as set out and amended.

The Chair: That's the normal process we would follow, Mr Kormos, since the whole bill is not voted on until the end, in theory. As you go through section by section, we would be making an amendment even to that.

Mr Kormos: I understand. I'm just suggesting that if you pass section 1, "The Declarations of Death Act, 2001, as set out in the schedule, is hereby enacted," in other words, enacted as unamended. I'm suggesting to you that it might be logical to go to it. I'm not averse to going to that. You've got amendments to it, but far be it from me—

The Chair: I think you've got a valid point, Mr Kormos. I think the flip side to the argument is that when the committee, exercising its power, amends the anticipated schedule, it is just as changed. However, I'm in the hands of the committee, as you know.

Mr Kormos: I made it on a point of order, so that's already been dealt with.

The Chair: The Chair has already indicated how he would likely decide such an intervention, but I'm in the hands of the committee. If you would prefer to go to section 1, page 6 would be the first amendment to that schedule. I'm looking at Mr Wood.

Mr Wood: I'd like to proceed on the basis that all the amendments will be considered. I would have thought, actually, and maybe I'm wrong, that the schedule would be dealt with as a separate section. It's going to incorporate whatever we pass as a schedule when we get to that.

Mr Kormos: It's these damn lawyers, Chair. Already you've got two different perspectives.

The Chair: I'm surprised I haven't heard a third opinion already.

Mr Kormos: You've got litigation already.

Mr Wood: We're not going to seek a third opinion.

Mr Kormos: Whatever. I just draw that to your attention. Please, do what you've got to do.

The Chair: Certainly precedent would dictate that we pursue it from front to back. Again I would remind all members of the committee that it is within their purview to change anything, quite frankly, any number of times as we go through. The committee has that power.

Mr Levac: A question for either the lawyers or anyone, legal counsel: approaching it either way, would it affect the outcome of what we're seeking to do, which is to amend the act?

The Chair: Loath as I am to suggest that if Mr Kormos was the only one taking a contrary position, the math would tend to suggest it would have the same outcome. I'm looking at both sides. Having heard a consensus of opinion on this change, is there a different consensus of opinion looking at the proposed amendment in the schedules, starting at schedule 1?

Seeing none, I think it would probably be clearer to folks if we simply proceed along our normal path here. Having dealt with sections 1 through 3, I will now invite—

Mr Wood: We have engaged lawyers to study the Liberal amendment. When we get to that, I'm going to have to ask that the matter be stood down, that we stand down the amendment so it can be taken under advisement, and that we reconvene the committee on the next scheduled date for consideration of this amendment for exactly the reason Mr Kormos pointed out a couple of minutes ago. When you get lawyers working on it, it takes time.

I just wanted to let the committee know that. I think we should get as far as we can today. I gather the Liberal amendment would be dealt with at the end, that it would be dealt with after we've dealt with the various—

The Chair: Normally, it would be dealt with in sequence as we propose, to go through the sections.

Mr Wood: But it seeks to add a section, does it not?

Clerk of the Committee (Ms Tonia Grannum): It will be dealt with after page 5 in the package of amendments, before the amendments to the schedule, though.

The Chair: Let me then, in light of that, suggest that perhaps we could start with all the schedules and then come back.

Mr Wood: Perhaps I could suggest this. The Liberal amendment stands on its own. Either we take it or we don't. Am I right in that? We can pass the rest of it and say, "OK, we're going to put that one over till the next day." Do I correctly understand the amendment?

The Chair: It does not delete or amend any existing section in the act, if that's your question.

Mr Wood: If we had unanimous consent, we could deal with all of the rest of it and leave that open so that we can either accept, amend or reject it at our next meeting. If that would achieve unanimous agreement, we could deal with the rest of this and have this done one way or the other with the exception of the Liberal amendment.

Mr Levac: I'm OK with that.

Mr Wood: If we have unanimous consent for that, we can agree to do everything with the exception of the Liberal amendment, which we need further time to consider.

The Chair: Do we have unanimous agreement for that?

Mr Levac: I'm all right with it.

The Chair: Mr Kormos?

Mr Kormos: I'm standing mute.

Mr Wood: You could abstain if you want, Peter. It's a well-established precedent.

The Chair: Given that we seem to have a new consensus forming, let's go back to—

Mr Kormos: On a point of order: In schedule 1, the Declaration of Death Act, I want people to be very cautious, because the subsection applies if an applicant has not heard of or from the individual since the disappearance. I don't want anybody to reach the conclusion that John Snobelen has died. He's simply not been around for a while.

Mr Wood: It's a matter that would have to be established in court. I for one won't comment on it.

Mr Kormos: He hasn't been heard from in a long time.

The Chair: That will now take us to section 4 of the bill.

Mr Wood: I move that section 2.1 of the Emergency Plans Act, as set out in section 4 of the bill, be amended by adding the following subsections:

"Confidentiality for defence reasons

"(4) Subject to subsection (5), a head of an institution, as defined in the Municipal Freedom of Information and Protection of Privacy Act, may refuse under that Act to disclose a record if,

"(a) the record contains information required for the identification and assessment activities under subsection (3); and

"(b) its disclosure could reasonably be expected to prejudice the defence of Canada or of any foreign state allied or associated with Canada or be injurious to the detection, prevention or suppression of espionage, sabotage or terrorism.

"Same

"(5) A head of an institution, as defined in the Municipal Freedom of Information and Protection of Privacy Act, shall not disclose a record described in subsection (4),

"(a) if the institution is a municipality and the head of the institution is not the council of the municipality, without the prior approval of the council of the municipality;

"(b) if the institution is a board, commission or body of a municipality, without the prior approval of the council of the municipality or, if it is a board, commission or body of two or more municipalities, without the prior approval of the councils of those municipalities.

"Confidentiality of third party information

"(6) A head of an institution, as defined in the Municipal Freedom of Information and Protection of Privacy Act, shall not, under that act, disclose a record that,

“(a) contains information required for the identification and assessment activities under subsection (3); and

“(b) reveals a trade secret or scientific, technical, commercial, financial or labour relations information, supplied in confidence implicitly or explicitly.

“Meetings closed to public

“(7) The council of a municipality shall close to the public a meeting or part of a meeting if the subject matter being considered is the council’s approval for the purpose of subsection (5).

“Application of Municipal Freedom of Information and Protection of Privacy Act

“(8) Nothing in this section affects the application of the Municipal Freedom of Information and Protection of Privacy Act to a record described in this section.”

The Chair: Any debate?

Mr Kormos: I really would like some explanation. I note subsection (8), “Nothing in this section affects the application,” but almost everything in the section affects the application. So I’m wondering why that is there, other than to reinforce that the exemptions from the freedom of information act are only those exemptions listed. I am concerned about the language in subsection 8 because it appears, at the very least, redundant. Everything in the section affects the application, yet subsection 8 said nothing in this section affects the application.

Mr Wood: I’d better seek advice. I think I know the answer, but in case I am wrong—

Mr Kormos: I just find that problematic in terms of language.

Mr Wood: Why don’t I seek advice here?

Mr Kormos: By all means.

Mr Wood: I can give my explanation, but it may be wrong, so we’ll see what theirs is. You have the floor.

Mr Jay Lipman: My name is Jay Lipman. I’m a lawyer at the Ministry of Public Safety. We did consider this, that it sounds a little bit redundant, but certainly the intention was only to clarify that it’s merely these sections, but no other sections or jurisdiction of the IPC or a person’s ability to an appeal or request decision—none of that is affected by these sections.

Mr Kormos: My concern is that a litigator is going to say—especially when you see the sequence of the subsection, in the order that they’re taken, and the wrap-up subsection says, “Nothing in this section affects the application of the Municipal Freedom of Information and Protection of Privacy Act.” So I am saying this is interesting because of its forerunners in this succession of subsections, but it wraps up in subsection 8 by saying nothing affects. I’m saying this is weird in that—I’m contemplating an argument—having said all that, it means nothing because subsection 8 means this.

1700

Mr Wood: Would you feel any better—this may be a bad idea that you can refute in a moment—about “except as set out in this section, nothing affects.”

Mr Kormos: We have all seen language to that effect in statutes. I’m asking why wasn’t that “but for the preceding subsections, nothing else in this section affects.”

Is that what was intended in the drafting? Is this novel? I don’t mean creative drafting, but novel in terms of not being based on the sort of drafting Mr Wood speaks to.

Mr Lipman: I think it is a drafting issue. I think it is to-the-point drafting, that you don’t need to have those opening words, perhaps.

Mr Wood: How distressed would you be if they weren’t in?

Mr Lipman: My only concern is that we discussed this particular subsection with the Information and Privacy Commissioner and actually spent quite a bit of time with them figuring out the language in this section.

The Chair: I’m in the hands of the committee. It would seem to me, if a reminder is necessary, that it is a question of satisfying the members of this committee—no other body—with the legitimacy of any proposed amendments. If you believe it adds clarity to the amendment, I think that should be guiding your decision.

Mr Levac: This is from a non-lawyer. I am reading this as if you’re saying that it doesn’t matter what is in this bill, it’s not going to stop you from applying for a privacy record. It doesn’t mean you’re going to get it; it just means it’s not going to stop you from applying. If you apply and it contravenes one of these things, you’re just not going to get the information you have asked for. Does that make sense?

Mr Lipman: That’s correct, yes.

The Chair: Would it follow that the word “prevents” would be a more appropriate and clearer word than “affects”? “Nothing prevents the application.” I’m in the same boat as Mr Wood.

Mr Wood: If we had strong support from all sides of the committee, I would have some interest in—

Mr Kormos: Strong support for what? I’m going to vote against the amendment. It isn’t just my academic interest.

Mr Wood: There could be some force to the proposition of saying “except as set out in this section,” etc, which addresses your concern, I think.

Mr Kormos: At the end of the day I have to live with what legislative counsel or drafters of any sort write. I don’t know if you want to defer this amendment. I don’t know if you’re that interested in looking at it again.

Mr Wood: I would not dismiss the point being raised. On the other hand, I guess if we had unanimous consent we could put this over along with the Liberal one. If there is unanimous consent, just so the committee understands what I have in mind, I would be prepared to put this with the Liberal amendment. Let them take a look at the concerns that have been raised, then you can give a more considered response to the concerns and perhaps consult with the Information and Privacy Commissioner.

The Chair: Fair enough. Do we have unanimous agreement to defer this amendment? Agreed. That will take us to section 5, an NDP amendment.

Mr Kormos: I should indicate that although the amendment was submitted as written, as a result of my discussions with Mr Wood, speaking as I understood on behalf of the government caucus here, indicating that the

amendment would not have support as written but would have support if changed to read, instead of "every three years," "every year," thus implying every year, and to delete the offence or penalty section. With permission, this being my motion, notwithstanding that notice wasn't given, and I should indicate that this communication would only commence at the beginning—

The Chair: We'll simply ask, is there unanimous agreement to allow an amended amendment to be presented?

Mr Levac: Just a clarification: did you say that in subsection (6) it is every three years?

Mr Kormos: No, every year.

Mr Levac: Every year instead of three?

Mr Kormos: Instead of as written, every three years.

Mr Levac: I'm for that, and that we remove the offence section altogether.

Mr Kormos: Remove subsection (6).

Mr Levac: There are no offences for not complying.

Mr Kormos: Correct.

Mr Levac: That's to obtain support in your discussions.

Mr Kormos: That's an effort to obtain support. That was what was put to me, and who am I to argue with the might of a majority government?

Mr Levac: I can agree to one. I will voice a little concern about the fact that "offence" is removed, simply because there are many opportunities in here for all the things municipalities are supposed to be doing, but there doesn't seem to be any teeth in it saying that once they haven't done it—

The Chair: We don't really have an amendment on the floor right now. I'd simply pose the question, do we have unanimous agreement to let Mr Kormos pose his amended amendment?

Mr Levac: Agreed.

The Chair: It is agreed.

Mr Kormos: I move that section 5 of the bill be amended by adding the following subsection:

"(3) Section 3 of the act is amended by adding the following subsections:

"Training and exercises

"(5) Every municipality shall conduct training programs and exercises to ensure the readiness of employees of the municipality and other persons to act under the emergency plan.

"Review of plan

"(6) Every municipality shall review and, if necessary, revise its emergency plan every year."

That, ladies and gentlemen, is the complete motion.

The Chair: Do you wish to speak to your motion?

Mr Kormos: If I may, it's pretty obvious there's consensus about the requirement for municipalities to conduct training programs and exercises to ensure readiness. Three years, as first proposed, as compared to one year in fact is being generous to the municipalities in view of the costs they would suffer by virtue of an annual review, noting that an annual review, having to be done every 12 months and the inevitable costs associated with

that, may mean a more superficial review than would otherwise be undergone. That's the risk. That's the danger in reducing it to one year. There's a strong interest in more frequent reviews because a lot can happen in 12 months in the course of a municipality's life in terms of what's happening in that municipality or what's going on in terms of staffing, be it firefighters, police officers, emergency medical personnel etc.

In the interest of getting this amendment passed, I'm prepared to compromise. You folks know my history. I've always been eager to compromise in an effort to resolve a conflict, and once again I display that spirit of compromise. The absence of a penalty—to be fair, one has here an obligation without a consequence for non-performing it, but for the fact that in my view, even though there isn't a provincial offence-type penalty, it would still support, let's say, an injunction, a process in court to compel a municipality to comply. I could anticipate, let's say, a firefighting service, a police service, an ambulance service or other groups bringing it. It still has some strength.

The other consideration: when you're fining a municipality, as compared to fining individuals, you're fining the taxpayers for what would be the malfeasance of its council or other personalities. It's no skin of their noses because the taxpayer picks up the tab, which we've seen a great deal of lately, haven't we, at Queen's Park. I'm not sure how strong a deterrent it necessarily is. I'm prepared to live without the penalty section because it's the corporation of the municipality of X, Y or Z that would pay the fine, if a fine were imposed. One can only hope that serious effect will be given to training programs and exercises, that they be meaningful ones rather than cursory, superficial ones simply to comply with the annual requirement.

Mr Levac: I don't want to spend a lot of time on this, other than to say that over the last few months there's been a lot of attention paid to training and programs, exercises for emergency response. Of the people I've been in concert with, almost to the number all have indicated the costs to the municipalities for these exercises and the expectation of standards. I would voice my concern that, as of yet, we have not seen regulations, we have not seen government monies. We have seen a tremendous number of people indicate that this does cost a lot of money, and where it comes from is concerning me. I just don't know that one year, each year, as I've seen them happen—it was about five years in a cycle where my community that I represent did a county-wide emergency practice. This exercise was absolutely breathtaking. They had co-operation from three municipalities, one reservation, and private industry ranging from CN Rail to Esso's storage tanks, and hospitals and everything. When I found out what the bill was, I was blown away. I need to say that I have to enforce strongly that when we do these things, we have to encourage participation of all levels of government to kick in.

1710

The second thing is the offence end of it. I will still mention that I am concerned about it because of just the

practicality of sending a message loud and clear: "If you don't comply"—what? There's a big question mark at the end of this. Because there's a question mark at the end, you may get some tests. I don't agree that tests should be made on these types of activities.

So do we ask municipalities nicely? Do we gently nudge them and say, "Come on, you guys; where are your plans? Let me take a look. You know that we're watching"? We've seen an example of what's happening. We had a municipality just recently that was told, "We're watching; we're working with you." We ended up with deaths. So we need to have something happen for the sake of making sure that when this does happen, we have some kind of carrot-and-stick attitude.

But I will support it under the fact that we are talking about providing some teeth to something that was already in existence. This already existed. There was an expectation, but we knew, through research, that 90% of the municipalities were complying. They had a plan. But then we find out that only 78% were practising the plan, and there were no repercussions for not doing so.

I'm concerned about it; I'm just voicing it here.

Mr Wood: I'll speak last.

The Chair: That would be you now, because you're the only one on the speakers' list.

Mr Wood: I think Mr Kormos—

The Chair: I think he's waived off.

Mr Wood: What I wanted to do was respond to a few of the issues raised. I think the annual reviews, if done properly, can accomplish more than the triannual reviews will accomplish.

Mr Kormos has raised a concern, which is valid if they do it wrong. But if they do it right, I think we'll get more out of the annual reviews than we would out of the three-year reviews. If that proves incorrect, we can always change the requirement later. But I think the right place to start, probably, is the one year.

Secondly, the issue of how to make sure the municipalities comply: we consider compliance as important as anyone else does. We think there are probably better ways than an offence section to do it. We think we can use diplomatic and, if necessary, firm methods of persuasion to make sure municipalities do this. We do urge the proposition. We've first got to say what's got to be done to have an effective emergency plan for every municipality in Ontario. Then we have to look at some of the ways that you actually do it and how you fund it.

My last comment does relate to that. Those who feel they need help should make their case. But I would suggest it would be a mistake for the committee not to first do what has to be done. We'll then work our way through exactly how that can be accomplished.

So the bottom line is, I think the amendment put forward—in other words, the revised version of the original motion—is a good one, and we're going to support it.

The Chair: Seeing no further comment, I'll put the question. All those in favour of Mr Kormos's amendment? Opposed? It's carried.

Shall section 5, as amended, carry? Carried.

Any comments or amendments to section 6? Seeing none, shall section 6 carry? It is carried.

Section 7: Mr Wood.

Mr Wood: I'm not certain—

Mr Kormos: If I may, Chair—

The Chair: I'm just wondering, Mr Kormos, before we get through any long debate, have you read subsection (4) at the bottom?

Mr Kormos: Yes, quite right. This is the parallel amendment I was speaking to.

The Chair: Should we stand this one down as well?

Mr Wood: I haven't got to the right page yet.

The Chair: Page 3.

Mr Wood: Thank you. That's probably one reason I'm not following what you're saying. I want to look at this again. I think your point's well taken, but I want to make sure I agree with that.

Mr Lipman: It's the same language.

Mr Wood: I would suggest, if we have unanimous consent, that we might stand down consideration of section 7 and proposed amendments to the next meeting of the committee.

The Chair: Is there unanimous agreement we do that? There is indeed.

The next amendment is page 4.

Mr Kormos: I move that section 8 of the bill be struck out and the following substituted:

"8. Subsection 6(2) of the act, as amended by the Statutes of Ontario, 1999, chapter 12, schedule P, section 4, is repealed and the following substituted:

"Training and exercises

"(2) Every minister of the crown described in clause (1)(a) and every agency, board, commission or other branch of government described in clause (1)(b) shall conduct training programs and exercises to ensure the readiness of crown employees and other persons to act under their emergency plans.

"Review of plan

(3) Every minister of the crown described in clause (1)(a) and every agency, board, commission or other branch of government described in clause (1)(b) shall review and, if necessary, revise its emergency plan every three years.

"Offence

"(4) A minister of the crown described in clause (1)(a), in his or her capacity as representative of the crown in right of Ontario, and an agency, board, commission or other branch of government described in clause (1)(b) that fails to comply with subsections (1) or (3) is guilty of an offence."

I would seek permission of this committee to vary this motion, notwithstanding that notice hadn't been given, to delete "every three years" in subsection (3) and change that to "every year" and to delete subsection (4), the penalty or offence section. I move it as altered or varied, subject to permission of the committee.

The Chair: Do we have unanimous agreement to allow Mr Kormos to vary his amendment? It's agreed.

We are debating the amended amendment. Has everyone got the changes? Three years is changed to one and subsection (4) is deleted.

Mr Kormos: I make this to make it consistent with the earlier motion that had first required reviews every three years and was varied to require them every year, and similarly to delete the penalty section. It was an effort to ensure that the amendment has passage, that there's some review, and the government indicated it would support the motion, which constitutes the amendment, if it were altered as I've altered it. I think any argument in support of it is similar to the arguments made on motion number 2.

Mr Wood: My comments are the same as my last comments, which I won't repeat.

Mr Kormos: Please.

Mr Wood: On the other hand, now that you ask—

Mr Levac: I'll be very quick with the question, and that is to Mr Kormos. Was this section created because you found that the rest of the bill did not take into consideration these employees and the minister of the crown?

Mr Kormos: The sense was that there should be parallel requirements to provide as complete a coverage of institutions, agencies etc as possible and that what's good for the goose is good for the gander. If municipalities are doing it, they'd have similar review obligations, and then the respective ministries should as well.

Mr Levac: The reason I brought up the question is that I didn't know whether or not they were separate entities when they reside inside the municipality. If the ministry is in the municipality, would they not comply to their municipal plan?

Mr Kormos: I don't understand how the municipality would have *prima facie* jurisdiction over them as compared to—

Mr Levac: I guess maybe that's the question. They're not under the jurisdiction of an emergency plan?

Mr Wood: Uncharacteristically, I would agree with Mr Kormos on that point.

Mr Kormos: You're coming around, Bob.

Mr Wood: You're agreeing with me too. My understanding would be similar to his.

Mr Levac: OK. I just put that out there, but can I get an interpretation from people who are putting this plan together, please?

The Chair: Let's invite Dr Young back up.
1720

Dr Young: We're talking about two different things here. The municipalities do the plan for the municipalities. The provincial plans are the ministries' plans of how they will run the ministries and carry out and coordinate what they do. So they're two different and distinct sets of plans.

Provincial infrastructure may not be the same as municipal infrastructure as well. It's running a parallel thing for the job that the ministries have to do instead. It's just a completely separate—

Mr Levac: I appreciate the clarification. It was my silly curiosity.

The Chair: Any further debate? Seeing none, we'll put the question on Mr Kormos's amendment.

All those in favour? Opposed? It is carried.

Shall section 8, as amended, carry? Carried.

Shall sections 9 through 15 carry? Carried.

Section 16: Mr Kormos.

Mr Kormos: I move that section 14 of the Emergency Plans Act, as set out in section 16 of the bill, be amended by adding the following subsection:

"Emergency response standards

"(1.1) The chief, Emergency Management Ontario shall set emergency response standards for emergency plans, based on consultations held with the persons or organizations that the chief considers appropriate including,

"(a) employees of municipalities, crown employees and other persons who are responsible for the provision of necessary services in emergency response and recovery activities;

"(b) the associations or unions that represent the employees and other persons described in clause (a);

"(c) the fire marshal; and

"(d) municipalities."

I think it's important that you outline the scope or range of consultations that the chief, Emergency Management Ontario should be conducting. If you're going to build efficient, effective plans—it doesn't suggest that he's bound by the input provided by these players; the list is merely illustrative but ensures that none of those players are exempted. This is a guideline. It codifies a guideline for the chief, Emergency Management Ontario in terms of effective consultations, but it certainly creates an obligation to consult fire marshals; to consult, for instance, the Police Association of Ontario. If I read the newspapers right, it has been made that much easier because the OPP joined this association, which will create some interesting debates around some other issues that they've been in conflict about, ones that I will enjoy all the more. But you've got the Police Association of Ontario; you've got professional firefighters' associations; you similarly have ambulance workers, etc.

Again, this doesn't obligate the chief, Emergency Management Ontario to comply with their requests or their guidance—part of me wishes it did—but it certainly ensures that they're in the consultation loop. I think that's sound and healthy and reasonable and withstands any possible criticism that people might try to levy against them.

Mr Wood: Time will tell on that point.

Mr Levac: Just for my purposes, for clarification, I hope I'm reading this right. Section 14 is amended. Section 14 says, "The Solicitor General may make regulations setting standards for the development and implementation of emergency management programs"—am I reading the right section? Am I on the right one? So we're removing, Mr Kormos—

Mr Kormos: No, adding.

Mr Levac: OK, so we're adding. So that is maintained, that "the Solicitor General may make regulations"?

Mr Kormos: May make, yes.

Mr Levac: OK. So that section stays, and then we move to the next section. What you're adding is that the chief, Emergency Management Ontario is responsible, then, for taking whatever the Solicitor General may make, in consultation with these other groups. No? OK. Help me.

Mr Kormos: The "may" is with respect to the Solicitor General. In other words, the Lieutenant Governor in Council may make regulations. There's no compulsion on the government to make regulations that set the standards, but the chief, Emergency Management Ontario shall create emergency response standards. Those emergency response standards don't have the same impact or clout as regulations made by the Solicitor General, but what we've done here is create a clear succession of obligations. In other words, the chief of Emergency Management Ontario has to create standards after these consultations. I think that's a very positive thing. The government then has to decide whether or not it incorporates those standards into its regulations, but by virtue of those being done, I think we have a guarantee that the government of the day will have a reference point for the standards that they may contemplate by regulation.

Mr Levac: Is that within the job description that presently exists with this new position?

Mr Kormos: It may or may not be, but it puts it in the statute in terms of what his obligations are.

Mr Wood: The government does not support this amendment. We feel that this bill should deal with emergency management standards only, not standards for first responders. That is not to say that some or all of the ideas in this amendment may not have merit, but we feel that it is not appropriately put into this bill.

Mr Kormos: Asking for a recorded vote.

Ayes

Kormos, Levac.

Nays

Miller, Munro, Stewart, Wood.

The Chair: The amendment fails.

Shall section 16 carry? All those in favour? Opposed? It's carried.

Shall sections 17 and 18 carry? Carried.

Shall section 1 of the schedule carry? Carried.

Section 2 of the schedule.

Mr Wood: I move that section 2 of the Declarations of Death Act, 2001, as set out in the schedule of the bill, be struck out and the following substituted:

"Order re declaration of death

"2. (1) An interested person may apply to the Superior Court of Ontario, with notice to any other interested persons of whom the applicant is aware, for an order under subsection (3).

"Notice

"(2) Notice under subsection (1),

"(a) if given by or to an insurer, shall be given at least 30 days before the application to court is made;

"(b) if given by or to a person other than an insurer, shall be given as provided by the rules of court.

"Power of court

"(3) The court may make an order declaring that an individual has died if the court is satisfied that either subsection (4) or (5) applies.

"Disappearance in circumstances of peril

"(4) This subsection applies if,

"(a) the individual has disappeared in circumstances of peril;

"(b) the applicant has not heard of or from the individual since the disappearance;

"(c) to the applicant's knowledge, after making reasonable inquiries, no other person has heard of or from the individual since the disappearance;

"(d) the applicant has no reason to believe that the individual is alive; and

"(e) there is sufficient evidence to find that the individual is dead.

"Seven-year absence

"(5) This subsection applies if,

"(a) the individual has been absent for at least seven years;

"(b) the applicant has not heard of or from the individual during the seven-year period;

"(c) to the applicant's knowledge, after making reasonable inquiries, no other person has heard of or from the individual during the seven-year period;

"(d) the applicant has no reason to believe that the individual is alive; and

"(e) there is sufficient evidence to find that the individual is dead.

"Scope of order

"(6) The declaration of death applies for all purposes unless the court,

"(a) determines that it should apply only for certain purposes; and

"(b) specifies those purposes in the order.

"Same

"(7) The declaration of death is not binding on an interested person who did not have notice of the application.

"Date of death

"(8) The order shall state the date of death, which shall be,

"(a) the date upon which the evidence suggests the person died, if subsection (4) applies; or

"(b) the date of the application, if subsection (5) applies.

"Same

"(9) The order may state a date of death other than that required by subsection (8) if the court is of the opinion that it would be just to do so in the circumstances and that it would not cause inconvenience or hardship to any of the interested persons.

“Order as evidence

“(10) Despite any other act, the order or a copy certified by the court is proof of the individual’s death for the purposes for which it applies under subsection (6).”

The Chair: Debate?

Mr Kormos: I tried to compare this to the original. Subsection (1) is no significant alteration of—

Mr Wood: I haven’t done this comparison. We had better seek advice.

Mr Kormos: After making reasonable inquiries in both subsections (4) and (5), and I have got subsection (8), can you point out in case I missed anything where the other significant—Mr Wood did compare the two; he just forgot. He’s had so much work since the time he compared the two.

1730

Mr Wood: I would confess not to have done the detailed comparison that Mr Kormos did.

Mr Kormos: Help us with that, would you please.

Mr William Bromm: There are actually five key changes to the section that I can take you through. The first key change appears actually in subsection (2) of the section, and it has to do with the notice period. In the current wording of the legislation before the amendment it simply says that notice has to be provided. In the new wording, subsection (2) says that notice has to be provided if it’s by or to an insurer on 30 days’ notice; if it’s by or to anyone else other than any insurer it’s on 10 days’ notice.

Mr Kormos: The rules of the court is 10 days?

Mr Bromm: The rules of the court is 10 days. It’s being changed here because under the Insurance Act, which has provisions already respecting similar applications, there’s a 30-day notice period. It was considered unfair to then shorten that period to 10 days from 30 days.

Mr Wood: For the purpose of the record, this motion is being made to replace all of section 2 to address several concerns that were raised by the Canadian Life and Health Insurance Association about the current wording of the section. The motion will make five key clarifications regarding: (1) notice, (2) obligation to look for evidence, (3) evidence of death, (4) legal effect of order, and (5) date of death.

Mr Kormos: So this is designed to accommodate private insurance companies?

Mr Wood: Who serve the public well, no doubt.

Mr Kormos: You may regret those words in due course, Mr Wood.

Mr Wood: If they don’t, they’re subject to suit.

Mr Kormos: I understand.

The Chair: Thank you. Further debate?

Mr Kormos: Mr Wood, I trust that the conditions in (4) and (5) are conjunctive rather than exegetical.

Mr Wood: You’re going to have to define the second word. I don’t know what that means. I know what conjunctive means.

Mr Kormos: I’m sure counsel will advise us.

Mr Wood: On the other hand, if he can answer that question, I defer to him.

Mr Bromm: You have to satisfy all of the conditions set out in both subsections (4) or (5), depending on which one you’re applying.

Mr Kormos: So indeed they are conjunctive rather than exegetical? That wasn’t that difficult, Mr Wood.

Mr Wood: I could have figured out whether or not they were conjunctive. I didn’t know what other word meant.

The Chair: All right. Seek definition later, now that we’ve all been challenged to get our thesaurus out. Any further debate?

Seeing none, I’ll put the question. All those in favour? Opposed? The amendment is carried.

Shall section 2 of the schedule, as amended, carry? Carried.

Shall section 3 carry? Carried.

Section 4: Mr Wood.

Mr Wood: I move that section 4 of the Declarations of Death Act, 2001, as set out in the schedule of the bill, be struck out and the following substituted:

“Motion to amend, confirm or revoke order

“4(1) An interested person may, with notice to any other interested persons of whom the person making the motion is aware, move for an order amending, confirming or revoking an order made under section 2 if the person making the motion did not have notice of the application to make the order.

“Same

“(2) An interested person may, with leave of the court and with notice to any other interested persons of whom the person making the motion is aware, move for an order amending, confirming or revoking an order made under section 2 if new evidence or a change in circumstances justify reconsidering the matter.

“Amendment re scope

“(3) An interested person may, with leave of the court and with notice to any other interested persons of whom the person making the motion is aware, move for an order modifying the scope of an order made under section 2.

“Motion re order under this section

“(4) An interested person may also make a motion under subsection (1), (2) or (3) in respect of an order previously made under this section.

“Notice

“(5) Notice under subsection (1), (2) or (3),

“(a) if given by or to an insurer, shall be given at least 30 days before the motion is made;

“(b) if given by or to a person other than an insurer, shall be given as provided by the rules of court.

“Power of court

“(6) The court may make an order confirming, amending or revoking the order and subsections 2(3), (4), (5), (6), (7), (8), (9) and (10) and section 3 apply, with necessary modifications, to an order made under this section.

“Preservation or return of property

“(7) If the court amends or revokes the order, it may also make any order it considers appropriate for the

preservation or return of property, including an order under subsection 6(3).

“References to s. 2 orders

(8) A reference in another section of this act or in any other act to an order made under section 2 shall be deemed to include an order made under this section.

Maybe I should attempt a brief explanation of this, if desired.

Mr Kormos: Maybe if I put this question, you can incorporate your response. I’m interested in subsection (3) of the amendment because I take a look at section 2, even as amended, and the order the court can make is that an individual has died.

Mr Wood: A little more than that.

Mr Kormos: When subsection (3) talks about “modifying the scope of an order made under section 2”—

Mr Wood: It can make more. It can say when they died, for example.

Mr Kormos: Let’s be careful, because I saw the sections. You have two conditions, “the date upon which the evidence suggests,” and “the date of the application,” if (4) or if (5) applies, depending upon which one applies. I’m sorry, you are either appealing the order—but the scope of the order is you are dead and you either died on “the date of the application, if subsection (5) applies,” or you’re dead and “the date upon which the evidence,” which the court infers you died on the basis of evidence, in subsection (4). So I’m still concerned about the scope of the order. Somebody’s only dead from the neck up? I’m concerned about that one.

Mr Wood: I think the scope relates to date of death.

Mr Bromm: The section on amendment of scope actually refers back to subsection 2(6). If you look in 2(6), it says that a “declaration of death applies for all purposes unless the court ... determines that it should apply only for certain purposes; and ... specifies those purposes in the order.” So under the current state of the law, you have to apply for a declaration of death for a variety of purposes. One would be to finalize an estate. One would be to remarry. Another would be to claim the proceeds of an insurance policy.

Those are all dealt with under separate statutes. What the scope of the order could be is to say you can use this order for all three of those or you can use it for only one. What might subsequently happen in section 4 in the subsection you’re referring to is a person who went to court to get an order to collect insurance monies may subsequently want to remarry, and if the order of the court at the time said you can use this order only for the purposes of insurance, they would have to go back to court under section 4 to vary the scope to also allow them to remarry.

Mr Kormos: That begs this question. Could you take a look at subs (4) and (5), which are the two really key subsections in section 2? The final observation has to be “there is sufficient evidence to find that the individual is dead”—in both cases. So I’m troubled by your contemplation of a restricted order. I’m trying very hard

because there is still, although this makes accessing this presumption of death or declaration of death easier—and we don’t quarrel with that. We indicated that from the get-go when this bill was introduced. That’s a pretty serious conclusion, to conclude that somebody is dead. I can’t for the life of me contemplate—my spouse would have me declared dead for the purpose of probating a will, but not for the purpose of remarrying? That’s a little peculiar because the standard is still pretty high. It’s not just loosey-goosey. It’s not like the mythology, “If somebody disappears for seven years, we can assume they’re dead.” That was the urban mythology around that. The standard was even, historically, much higher than that.

I’m troubled by varying the scope. I hear what you’re saying here and now. The legislation doesn’t say that. Do you know what I mean? “Scope” is a new word in the Declarations of Death Act. I’m really concerned, because it doesn’t say “can modify the order as with”—to be fair, scope is the subheading, but that’s not the operative part of the statute. Wow. I still find that really troublesome.

Mr Wood: I would have thought the wording of section 2 would satisfy what you just said. They can amend, confirm or revoke. Is there anything you would like to do that isn’t covered by that?

Mr Kormos: I appreciate that “scope” refers to the little subtitle. I’m sure there’s a more correct name for that, in the subsection. For an order modifying the scope, clearly you want to restrict it to subsection (6), which is what you’re suggesting and I don’t quarrel with that nor do I find that bizarre, in any event. Does the legislation not want to be more specific? The scope of an order as determined by subsection (6)? Do you know what I’m saying?

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Mr Wood: It’s very difficult. I think my answer applies as well as yours. They might make an order as of the time of the order, then evidence comes forward as to when they actually died, which might have some implications. Would that not be a modification of the scope of the order?

Mr Bromm: It wouldn’t be a modification of the scope. It would be a modification of the order, but that would be done under a different subsection of section 4.

If you look at section 4, there are two subsections which deal with changes to an order. There is a subsection to amend, vary or revoke, and you could amend the order by changing the date of death. Then there’s the subsection dealing with amending the scope, which has to do with the purposes with which you can apply the declaration of death that you have.

Mr Wood: Could I ask this question? Is there anything in the original order that couldn’t be changed under these sections?

Mr Bromm: No.

Mr Wood: Does that not satisfy your concern?

Mr Kormos: Give me an example that isn’t nonsensical, that isn’t overly reaching as to subsection (3), where an interested party may seek to alter the scope. For

instance, if I'm an insurer, I'm an interested party, and if a court then ruled my insurance client dead in the broadest sense—

Mr Wood: Dead for all purposes.

Mr Kormos: Yes, dead for all purposes—that would impact on me. It would be to my detriment if I was going to fight payment on the insurance policy. Because if I didn't get notice, I could move to set aside otherwise, right?

Mr Bromm: Yes.

Mr Kormos: I don't have to modify it. If it was a mere issue of my not getting notice of a hearing, I could have it set aside. I don't even have to seek leave any more, as I recall the amendment. It eliminated the leave-seeking provision.

Here it is, some court has declared my client dead for all purposes. I go, an interested party, with notice, and move for an order modifying the scope. Is this an appeal section? Is this what this amounts to?

Mr Wood: No.

Mr Kormos: Do you see how it troubles me? Give me an illustration. Give me a "for example," because I can't think of one.

Mr Bromm: The best example very similar to the situation you're envisioning is a circumstance in which someone has decided to go seek a declaration of death because they want to finalize an estate or because they want to remarry, and at the time they brought that application, they were not aware of the existence of an insurance policy. Therefore, when they went to court and got the order, they didn't know there was an insurance policy and did not provide notice to any insurance company, and they got their order. The order would specify that it applies for all purposes other than insurance.

You subsequently discover there's an insurance policy and, rather than recommencing the proceeding in its entirety all over again, you simply make a motion under this section to amend the scope. You provide notice to the insurer, the court hears the matter in a simplified procedure, and the scope is then amended so you can collect the proceeds of the insurance.

Mr Kormos: Fair enough. I accept that reasoning. But then I go back—mind you, we've already passed this amendment, subsection (6), remember, and the default judgment, if you will—if we can look at it that way—is the broadest-based one. It doesn't say, "a court shall specify the purposes for which"—the declaration of death applies for the purposes specified, unless the court—do you know what I mean?

Mr Bromm: Yes.

Mr Kormos: It's the other way around. So your argument about the application of subsection (3), to me, subject to this dialogue going any further, would be more appropriate if the default judgment were flipped; in other words, if the default judgment were the specified purpose. It can only be a specified purpose, because that takes the judge to the next stage, and the court has to consider whether you go beyond that. "OK, I'm going to grant the declaration of death for the purpose of resolving

an estate but for no other reasons, because that's all we're interested in right now." If that were the way it worked—the other way around—this would make more sense. Does that make any sense to you?

Mr Bromm: Actually, no, because the whole policy intention behind introducing the legislation is to create a single procedure through which you can get a single declaration of death good for all purposes, and that's the default position: that it is good for all purposes.

If you wanted to go to your position, we simply wouldn't have this legislation; we would go with the current status of the law, which is that you apply to the court for single orders for single purposes and never have an all-inclusive order.

So the default position is necessary to achieve the government's policy intention.

Mr Wood: It comes back to your initial comment: either you're dead or you aren't.

Mr Kormos: That's right. But then I'm concerned about this. I don't like this amendment, because it seems to me, then, that it will work usually in the one direction; it'll work in the case where a broad-based declaration of death has been declared, which is the general interest being served by the bill. By and large we want declarations of death that say, "You're dead. End of story," because we don't want people to have to nitpick. But that's when you're going to get the nitpicking, with any number of interested parties, be it a sibling in a will who wasn't named in the will who doesn't want to see the will probated, right, or an insurance company etc. No, I don't like subsection 4(3).

Mr Wood: Time may reassure you, but I mean—

Mr Kormos: Well, I may not live that long.

Mr Wood: Well, you may be the subject of the litigation.

Mr Bromm: If it provides any comfort at all, this is not unique legislation. It's based on the uniform declaration of death act, which has been in existence in Canada since 1974, and it exists in five other jurisdictions in Canada. They all have the same wording, and the case law hasn't revealed the kinds of difficulties that you're contemplating.

Mr Kormos: Fair enough.

The Chair: I'll now put the question. All those in favour of the amendment? Opposed? It is carried.

Shall section 4, as amended, carry? It is carried.

Section 5? Mr Wood.

Mr Wood: I move that section 5 of the Declarations of Death Act, 2001, as set out in the schedule to the bill, be amended by striking out "under subsection 4(1)" at the end and substituting "under section 4."

The Chair: Any debate? Seeing none, I'll put the question.

All those in favour? Opposed? It is carried.

Shall section 5, as amended, carry? It is carried.

Shall section 6 carry? It is carried.

Section 6.1, a new section. Mr Wood.

Mr Wood: I move that the Declarations of Death Act, 2001, as set out in the schedule to the bill, be amended by adding the following section:

“Payment, distribution under order discharges duty

“6.1 A payment of money or distribution of property made pursuant to an order made under this act discharges the person who made the payment or distribution to the extent of the amount paid or the value of the property distributed.”

The Chair: Any debate?

Mr Levac: Could I hear the rationale, please?

Mr Wood: Let me take a crack at it, which may be—maybe I’d better let you go first; then I’ll take a crack at it.

Mr Bromm: It’s basically an amendment to mirror what exists under the current provisions of the Insurance Act. What that section says is, if someone goes to court and has someone declared dead and collects money on an insurance policy, the insurer who pays out the money is therefore protected from any subsequent claims by a person who comes along and says, “I should have gotten that money,” or a creditor of the deceased person who comes along and says, “You should have paid me that money, not the beneficiary.”

So the insurer, once they pay out to the beneficiary under the policy, cannot be sued in court for the amount that they’ve paid out. It doesn’t mean the people can’t go and sue the person who got the money, but they cannot sue the insurer.

Mr Wood: Could I have a little blurb?

The Chair: Sure, please.

Mr Wood: The Canadian Life and Health Insurance Association was concerned that the same protection was not provided by the Declarations of Death Act, 2001. The failure to incorporate this protection in the Declarations of Death Act was a technical oversight and exposed the insurance industry to liability claims that they would not otherwise be exposed to. Such a result was not intended. The motion corrects this oversight by mirroring the liability protection of the Insurance Act. The provision will also protect other financial institutions who make payments under financial instruments pursuant to a declaration of death as well as executors who distribute property following a declaration.

I would add that this mirrors how the probate law generally works. There’s a similar protection given to financial institutions, executors and so on. So it’s consistent with the general law.

Mr Levac: I guess my mind works in a different way, because I’m not a lawyer. Does this mean, then, that if the person who does the paying out, that’s who we’re talking about, does so under an order, it can only be done in a way that the order prescribes, meaning that they can’t do anything fraudulently, they can’t do anything hanky-panky, so that prevents them from coming back and getting to them?

Mr Bromm: Yes, they have to pay under the order and they have to pay to the designated beneficiary in the insurance policy.

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Mr Levac: Therefore, because that has to be followed explicitly, there can’t be any kind of game-playing done that would allow that person to do something and then this order would say, “But you can’t come back and get me.”

Mr Bromm: This would not protect any fraudulent conveyance of funds or a fraudulent conveyance of property. It only protects things that are done legitimately under the court order.

Mr Levac: Thank you.

Mr Kormos: All of us have to be very conscious of the fact that this legislation, while convenient, has—although it would be in the most extreme circumstances—serious shortcomings. I think of a context during the last century, World War I and World War II. Although not that many Canadians died in the Korean War, we had, for instance, armed forces personnel missing in action, presumed dead, with all sorts of possible scenarios flowing from that without the prospect of that person being *de facto* dead, but satisfaction, although the time frames are pretty exhaustive.

Don’t forget to take a look at section 6 that we just passed that talks about the presumption of a legitimate distribution of estate, then the person who owns that money that was improperly distributed having to make application to the court. There’s that minutiae, that teeny bit of a downside. When the court makes that artificial declaration that you’re dead, for the purpose of other people’s interests and your own, you’re dead.

Did I tell you about the time the Toronto-Dominion Bank, those thieves—because you’ve got to be careful. I had a bank account at Toronto-Dominion Bank here in Toronto that I had from my student days, and I just kept it. There it was; I figured it was money in the bank—savings. Sure enough, around eight years later I show up, and I owed them money because they had nickel-and-dimed every penny of it. People have got to be careful. They can’t just disappear for seven years. The banks are the worst because banks will rob you blind. Talk about biker clubs ripping people off. We should have special squads to arrest bank CEOs. That’s just what I would mention to people as a caveat, about disappearing and not keeping contact with the thieving banks like the Toronto-Dominion.

The Chair: Thank you. I’ll now put the question. All those in favour of Mr Wood’s amendment? Opposed? It’s carried. The section is carried.

Shall sections 7 and 8 carry? Carried.

Section 9: Mr Wood.

Mr Wood: I move that subsection 203(2) of the Insurance Act, as set out in section 9 of the schedule to the bill, be struck out and the following substituted:

“Order under Declarations of Death Act, 2001

“(2) Despite sections 208 and 209, an order made under the Declarations of Death Act, 2001, that declares that an individual has died is sufficient evidence of death for the purpose of clause (1)(a) if the insurer had notice of the application.”

The Chair: Any debate?

Mr Kormos: I'm going to need some help with this. You might want to talk about the amendment in the context of section 9.

Mr Wood: Let me make an attempt.

Mr Kormos: Just so we understand.

Mr Wood: This is a technical change to make the wording of section 9 consistent with that used in section 2 of the act.

Mr Kormos: OK, but then help us with section 9 in general, although it's not the amendment itself—

Mr Wood: I will defer to our expert here, who will assist us.

Mr Bromm: Without section 9, an individual who got an order under this legislation could not use it to collect insurance monies because the Insurance Act has the specific procedure you have to follow to collect on an insurance policy in the event that a person's body has not been identified. This amends it and says, "If you have an order under this act, it applies for the Insurance Act purposes," and you avoid two procedures.

Mr Kormos: It relieves you of a higher standard that's in the Insurance Act?

Mr Bromm: No. When we met with the insurance company, they were very comfortable that the standards are consistent in the two pieces of legislation, but what it avoids is the strict wording of the Insurance Act that requires you to make the application under that act.

The Chair: There being no further debate, I'll put the question. All those in favour? Opposed? The amendment is carried.

Shall section 9, as amended, carry? It's carried.

Shall sections 10 through 13 carry? Carried.

Mr Kormos: Whoa.

The Chair: I already carried. All those in favour?

Mr Kormos: Whoa, whoa. I appreciate "shall it carry"—

The Chair: We are coming back again. You know that.

Mr Kormos: Whoa, whoa.

The Chair: The specific section?

Mr Kormos: Yes, section 10, which is section 9 of the Marriage Act. Again, just so we understand, a very brief synopsis explaining this section.

Mr Bromm: It's the same rationale as the Insurance Act. The Marriage Act has the unique procedure in it to get an order that would allow you to remarry. This simply says that you do not have to go through that unique procedure.

Mr Kormos: Thank you.

Interjection.

The Chair: No, that's fine. We'll go through it again.

Shall sections 10 through 13 carry? Carried.

Shall the long title of the bill carry? Carried.

I would ask the last two questions because we have deferred two amendments—three, I guess, technically speaking. I would propose to committee that due to the fact there's an order of the House that prevents committees sitting on this Wednesday—Thanksgiving is next Monday—the next earliest day would be October 16. Is the committee in agreement that we will reconvene?

Mr Kormos: Perhaps to adjourn this to October 16, with the understanding that it can be addressed prior to that, if there's a space.

The Chair: I'm amenable to that. If you, speaking particularly as a House leader as well, would be prepared to allow the committee some other time outside of routine sitting times, I—

Mr Kormos: No, no. I'm not suggesting that. I'm saying, if we can squeeze it in—

The Chair: That is the next sitting day of the committee though.

Interjections.

Mr Kormos: Jeez, I've got this horrible conflict. I'm double-booked.

Mr Wood: On the other hand, if we have an earlier meeting, I think Mr Kormos's suggestion is well taken.

Mr Kormos: We could maybe do it at 6 am some day.

The Chair: OK. So we have unanimous agreement, October 16, or earlier, if that can be facilitated. The committee stands adjourned until that time.

The committee adjourned at 1757.

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Mr William Bromm, counsel, Ministry of the Attorney General

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Ms Tonia Grannum

Staff / Personnel

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Troisième session, 37^e législature

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Mercredi 16 octobre 2002

Standing committee on general government

Emergency Readiness Act, 2002

Comité permanent des affaires gouvernementales

Loi de 2002
sur l'état de préparation
aux situations d'urgence

Chair: Steve Gilchrist
Clerk: Tonia Grannum

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LEGISLATIVE ASSEMBLY OF ONTARIO

ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

STANDING COMMITTEE ON
GENERAL GOVERNMENTCOMITÉ PERMANENT DES
AFFAIRES GOUVERNEMENTALES

Wednesday 16 October 2002

Mercredi 16 octobre 2002

The committee met at 1540 in committee room 1.

EMERGENCY READINESS ACT, 2002

LOI DE 2002
SUR L'ÉTAT DE PRÉPARATION
AUX SITUATIONS D'URGENCE

Consideration of Bill 148, An Act to provide for declarations of death in certain circumstances and to amend the Emergency Plans Act / Projet de loi 148, Loi prévoyant la déclaration de décès dans certaines circonstances et modifiant la Loi sur les mesures d'urgence.

The Chair (Mr Steve Gilchrist): I call the standing committee on general government to order for the purpose of the completion of clause-by-clause of Bill 148, An Act to provide for declarations of death in certain circumstances and to amend the Emergency Plans Act.

To refresh everyone's memory, we had stood down three sections. When those are done, I will apprise the committee members that legislative counsel has discovered two errors, and we will be seeking unanimous consent to reopen two of the schedules to simply reflect on the need to make those changes there.

The first section was in section 4. It would have been on your replacement amendments package, marked as replacement number 1. Mr Wood?

Mr Bob Wood (London West): I move that section 2.1 of the Emergency Plans Act, as set out in section 4 of the bill, be amended by adding the following subsections:

"Confidentiality for defence reasons

"(4) Subject to subsection (5), a head of an institution, as defined in the Municipal Freedom of Information and Protection of Privacy Act, may refuse under that act to disclose a record if,

"(a) the record contains information required for the identification and assessment activities under subsection (3); and

"(b) its disclosure could reasonably be expected to prejudice the defence of Canada or of any foreign state allied or associated with Canada or be injurious to the detection, prevention or suppression of espionage, sabotage or terrorism.

"Same

"(5) A head of an institution, as defined in the Municipal Freedom of Information and Protection of Privacy

Act, shall not disclose a record described in subsection (4),

"(a) if the institution is a municipality and the head of the institution is not the council of the municipality, without the prior approval of the council of the municipality;

"(b) if the institution is a board, commission or body of a municipality, without the prior approval of the council of the municipality or, if it is a board, commission or body of two or more municipalities, without the prior approval of the councils of those municipalities.

"Confidentiality of third party information

"(6) A head of an institution, as defined in the Municipal Freedom of Information and Protection of Privacy Act, shall not, under that act, disclose a record that,

"(a) contains information required for the identification and assessment activities under subsection (3); and

"(b) reveals a trade secret or scientific, technical, commercial, financial or labour relations information, supplied in confidence implicitly or explicitly.

"Meetings closed to public

"(7) The council of a municipality shall close to the public a meeting or part of a meeting if the subject matter being considered is the council's approval for the purpose of subsection (5).

"Application of Municipal Freedom of Information and Protection of Privacy Act

"(8) Nothing in this section affects a person's right of appeal under section 39 of the Municipal Freedom of Information and Protection of Privacy Act with respect to a record described in this section."

If it's open to comment, a concern was raised about an earlier subsection. It was much more general and there were significant concerns as to whether or not it accomplished what it was attempting to accomplish. This one, I think, is focused and does not detract from what is in the act and will, in fact, achieve the concerns of the Information and Privacy Commissioner, who I believe has approved this. Am I right?

Mr Jay Lipman: Yes.

Mr Wood: Yes, she agrees with us, so I think that repairs a potential defect that was identified.

Mr Peter Kormos (Niagara Centre): I want to make this clear that everybody's concerned when one restricts access via the FOI, but it's my understanding of this that this is designed to protect anyone from FOIing information that would facilitate the implementation of creating

an emergency. It would secure information from being divulged that could be used to create a hazard, a crisis. It would protect the municipality from being required to disclose sensitive information that would expose vulnerabilities. I just want to understand clearly.

Mr Wood: Let's invite leg counsel to comment on that, and then I'll give you my take on it. You have the floor.

The Chair: Could you introduce yourself first, for the purposes of Hansard?

Mr Lipman: I'm Jay Lipman from the Ministry of Public Safety and Security. Yes, that is the purpose of this amendment: to protect the public disclosure of sensitive, security-type information.

Mr Kormos: I listened carefully and read carefully subsection (8), which reaffirms the right of appeal under section 39. Does that mean that a person then could appeal a determination by a counsel that certain information would not be disclosed because it would constitute a security risk?

Mr Lipman: Yes, that's correct.

Mr Kormos: I think this is my final question: in the course of an appeal, I could call upon the municipality to establish to the satisfaction of those authorities that this indeed was bona fide security information?

Mr Lipman: Yes, that's correct.

The Chair: Any further discussion? Seeing none, I'll put the question. All those in favour of the amendment? Opposed? It is carried.

Mr Wood, just before we move on, I believe that you had read the similar motion into the record at our last meeting. I wonder if you could just formally indicate that it's withdrawn.

Mr Wood: Yes, I would like to withdraw the similar motion made some days ago.

The Chair: Thank you. In fact, while we're on that subject, I don't recall whether you read the other.

Mr Wood: I haven't read it yet.

The Chair: No, last week, the other two amendments that are subject to review today.

Mr Wood: Yes, I believe it was.

The Chair: On the chance that it was read into the record, why don't you just withdraw all of the outstanding amendments carried over from the last meeting?

Mr Wood: Yes, my understanding is there are only two.

The Chair: Two, yes.

Mr Wood: I'd like to withdraw both outstanding amendments from last week.

The Chair: Thank you very much. That takes us now to ask about section 4, as amended. Shall it carry? Section 4, as amended, is carried.

That takes us to section 7.

Mr Wood: I move that section 5.1 of the Emergency Plans Act, as set out in section 7 of the bill, be amended by adding the following subsections:

"Confidentiality of third party information

"(3) A head of an institution, as defined in the Freedom of Information and Protection of Privacy Act, shall not, under that act, disclose a record that,

"(a) contains information required for the identification and assessment activities under subsection (2); and

"(b) reveals a trade secret or scientific, technical, commercial, financial or labour relations information, supplied in confidence implicitly or explicitly.

"Application of Freedom of Information and Protection of Privacy Act

"(4) Nothing in this section affects a person's right of appeal under section 50 of the Freedom of Information and Protection of Privacy Act with respect to a record described in this section."

This, of course, is parallel to the new motion we just moved.

The Chair: Further debate? Seeing none, I'll put the question. All those in favour of the amendment? Opposed? It is carried.

Shall section 7, as amended, carry? It is carried.

Mr Wood: I am about to ask for unanimous consent to move two new motions, the particulars of which have been supplied—

The Chair: Hold on, Mr Wood. We're getting a little ahead of ourselves here because we still have the new section 16.1, which was—

Mr Wood: Mr Levac has moved that, I think, and read that into the record.

Clerk of the Committee (Ms Tonia Grannum): I don't think he read that into the record.

Mr Wood: If he didn't, maybe we'd better invite Mr Colle to do so.

The Chair: Are we proceeding with it, or was that the subject of the discussion that was taking place before the meeting started?

Mr Wood: We had agreed that it could be put forward. My understanding from Mr Colle, which you may wish to correct or update, is that you would like this voted on.

Mr Mike Colle (Eglinton-Lawrence): Yes. My understanding is that the intention of Mr Levac is to continue dialogue with the minister and the parliamentary assistant in terms of the spirit of the amendment be incorporated in ongoing final disposition of this legislation and its intent, to incorporate some of the sentiment and some of the objects Mr Levac tried to attain by putting in this amendment.

Mr Wood: Do you want me to put on the record our position, which might assist you in determining what you want to do?

Mr Colle: Yes, would you, please?

Mr Wood: Then you can decide where you want to go from there.

Mr Colle: Right. If I could just clarify: we have this Liberal motion that has been discussed with staff and with the minister by Mr Levac. I think he's willing to withdraw this amendment on the basis that there is an undertaking by the parliamentary assistant to continue this dialogue, trying to reach the goals that Mr Levac

tried to accomplish through his motion. In a nutshell, if we can get on the record that there is an intention and undertaking to continue this dialogue with Mr Levac, I'll be more than happy to withdraw the Liberal motion.

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Mr Wood: This is a motion that in substance would provide for political input at the MPP level and political oversight of activities of the government with respect to anti-terrorist activities, and it would put that right in the statute. We support the idea of political input and political oversight. We do not think that's best done by way of putting it in the statute. We would like to observe that whatever mechanism is developed to achieve that can't involve politicians in police operations. That's a caution we put forward so that everyone understands that whatever this mechanism is, it can't get elected people involved in actual police operations.

Having said all that, we think the idea is a sound one. We would invite Mr Levac and all others interested to make suggestions to the ministry as to how that might be accomplished, because it is the kind of thing that is done in other jurisdictions. I think there are good reasons why it should be done. We support the principles of input and oversight that are set out in the motion, but we disagree with the particular way of accomplishing that.

Mr Colle: That's fine.

The Chair: Since it was not formally read into the record but now we have the respective positions in Hansard, perhaps we could move on to the other two amendments we have to deal with as a result of some drafting errors.

I first have to ask for unanimous consent to reopen sections 2 and 4 of the schedule.

Mr Colle: So moved.

The Chair: Any dissent? It's agreed.

Mr Wood, could I get you to read the first of them, please?

Mr Wood: I move that subsections 2(1) and (2) of the Declarations of Death Act, 2001, as set out in the motion to section 2 of the schedule to the bill that was carried by the standing committee on general government on October 7, 2002, be struck out and the following substituted:

"Order re declaration of death

"(1) An interested person may apply to the Superior Court of Justice, with notice to any other interested persons of whom the applicant is aware, for an order under subsection (3).

"Notice

"(2) Notice under subsection (1),

"(a) if given by or to an insurer, shall be given at least 30 days before the application to court is made;

"(b) if not given by or to an insurer, shall be given as provided by the rules of court."

We'd be pleased to offer explanation, if explanation is desired.

Mr Kormos: How could we have missed that, Mr Wood?

Mr Wood: I know that in his long practice of law Mr Kormos never had to redraft a document, and we further know that he will offer free advice to our drafters.

Mr Kormos: Free advice is usually worth just about as much as you pay for it.

Mr Wood: Be sure your insurance is paid before you offer it.

Mr Kormos: I'm embarrassed. I'm deadly serious, and I say this in particular to the government members on this committee, those of you who from time to time may be inclined to dismiss the committee process for even the most innocuous types of legislation, and this again is an illustration. Granted, it wasn't any of us, but the fact that it was in committee made sure the bill was done right at the end of the day. There were some other modest amendments that may constitute mere tinkering, but we've done our best, perhaps our incompetent best, to improve a bill that had undergone the rigours of trained drafters. The committee is incredibly important.

The other day I was in the regs committee. Apparently from time to time the regs committee has to confront numerous oversights in the drafting of regulations; they do a cleanup en masse. Again it illustrates how even the most competent of staff in terms of drafters, with all the resources—and, granted, they probably deserve more to do their job the way we demand of them. But that illustrates how important a committee is. So when my colleagues scorn opposition requests for committee hearings and suggest, "But everybody agrees with the proposition," that may well be, but here we've done a little bit to make the bill better. Undoubtedly some judge down the road is going to point out a serious oversight of ours because some sharp lawyer—not a pettifogger, mind you, but simply a competent counsel—is going to find perhaps—I do want to ask, though: what do the civil rules of procedure provide for notice?

Mr Wood: I think I had better refer that to counsel, who may or may not be able to help us on this.

Mr William Bromm: Under the current rules of civil procedure, it's a 10-day notice period for an application to court.

Mr Kormos: Here I am. You're calling upon me to support something that gives a greater period of notice. I appreciate it's "by or to an insurer." So in the one case they might feel aggrieved by the longer period of notice, if it's by them, because notice usually impacts upon the respondent more than on the applicant. Why are we giving a different period when it deals with an insurer than with any other party?

Mr Bromm: Because the 30-day period this statute would provide for is already provided for under the provisions of the Insurance Act. In order to provide consistency between the two statutes, there is a determination to provide for the 30-day period, whereas the other statutes that have applications for declaration, such as under the Marriage Act, stick to the rules of civil procedure. So this is just maintaining the consistent standard that already exists for similar applications.

Mr Kormos: So insurance companies get break after break after break. I understand.

The Chair: I will now put the question. All those in favour of the amendment? Opposed? It is carried.

Shall section 2 of the schedule, as amended, carry? It is carried.

Mr Wood: I move that clause 4(5)(b) of the Declarations of Death Act, 2001, as set out in the motion to section 4 of the schedule to the bill that was carried by the standing committee on general government on October 7, 2002, be struck out and the following substituted:

“(b) if not given by or to an insurer, shall be given as provided by the rules of court.”

The Chair: Any discussion?

Mr Kormos: I trust that is, again, consistent with the earlier section that was amended that deals with the differentiation between insurer and any other party.

Mr Bromm: Yes.

Mr Wood: I might say, in response to what Mr Kormos said about the committee process earlier, that I am confident that not only the contributions of the government members on this bill and the other bill that was dealt with earlier but of the opposition members will indeed commend the committee process to all members of the House. I think the point Mr Kormos made is not an insignificant one. If we don't follow good process, we don't get as good results as we might. So I don't want to leave that point entirely without making reference to it. I think there is an important principle involved in that. While the general public does not follow the process of this place, it does make a difference in terms of the result they get. I know the positive spirit shown by all members is going to commend this process to all members of the House.

The Chair: Further discussion? Seeing none, I'll put the question. All those in favour? Opposed? It is carried.

Shall section 4, as amended, carry? It is carried.

Shall Bill 148, as amended, carry? It is carried.

Shall I report the bill, as amended, to the House?

Mr Kormos: Chair, one moment, please. On that question, may I?

The Chair: You may.

Mr Kormos: Mr Gilchrist and I are being so cordial to each other.

The Chair: The Chair must always be neutral.

Mr Kormos: I am disinclined to support the return of this bill to the House. My concern is that the committee hasn't done its work. I'm not about to debate amendments that have been put forward and defeated, but I cannot support returning this bill to the House when this bill does not contain, for instance, a requirement that the parties to an emergency response—for instance, police officers, firefighters and medical personnel—be consulted in the process. I'm reluctant to refer this bill back to the House when it does not incorporate some already well-established standards, like the standards for firefighter response that have been argued and advocated for by the Ontario Professional Fire Fighters Association, not only the membership but the leadership.

So I want to tell you that I am disinclined and will not be supporting the referral of this bill back to the House in its present state. I understand the purpose of the bill. I have no quarrel with the intent of the bill. But it is my view and submission that the bill is incomplete and that this committee should wrestle with this bill yet further so that once again it can be meaningful not just in spirit but in terms of its impact. I would ask for a recorded vote.

The Chair: Mr Kormos has asked for a recorded vote.

The question before us is, shall I report the bill, as amended, to the House?

Ayes

Colle, Gill, McDonald, Stewart, Wood.

Nays

Kormos.

The Chair: I shall report the bill, as amended, to the House.

This being the end of our deliberations on Bill 148, this committee stands adjourned.

Mr Wood: Did we get the title of the bill in there?

The Chair: We already dealt with the title.

Mr Wood: It was done last week, was it?

The Chair: It was last week.

Clerk of the Committee: And the long title too.

The Chair: The committee stands adjourned.

The committee adjourned at 1601.

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**Standing committee on
general government**

Municipal Statute Law
Amendment Act, 2002

**Comité permanent des
affaires gouvernementales**

Loi de 2002 modifiant des lois
en ce qui a trait aux municipalités



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LEGISLATIVE ASSEMBLY OF ONTARIO

ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

STANDING COMMITTEE ON
GENERAL GOVERNMENTCOMITÉ PERMANENT DES
AFFAIRES GOUVERNEMENTALES

Monday 18 November 2002

Lundi 18 novembre 2002

*The committee met at 1536 in committee room 1.*MUNICIPAL STATUTE LAW
AMENDMENT ACT, 2002LOI DE 2002 MODIFIANT DES LOIS
EN CE QUI A TRAIT AUX MUNICIPALITÉS

Consideration of Bill 177, An Act to amend the Municipal Act, 2001, the Municipal Elections Act, 1996 and other Acts consequential to or related to the enactment of the Municipal Act, 2001 and to revise the Territorial Division Act / Projet de loi 177, Loi modifiant la Loi de 2001 sur les municipalités, la Loi de 1996 sur les élections municipales et d'autres lois par suite de l'édiction de la Loi de 2001 sur les municipalités et révisant la Loi sur la division territoriale.

SUBCOMMITTEE REPORT

The Chair (Mr Steve Gilchrist): Good afternoon. I'll call the committee to order for the purpose of considering Bill 177. The first order of business would be the report of the subcommittee on committee business.

Mr Garfield Dunlop (Simcoe North): I'd like to move the motion.

Your subcommittee met on Monday, November 4, 2002, to consider the method of proceeding on Bill 177, An Act to amend the Municipal Act, 2001, the Municipal Elections Act, 1996 and other Acts consequential to or related to the enactment of the Municipal Act, 2001 and to revise the Territorial Division Act, and recommends the following:

(1) That the committee meet on Monday, November 18, 2002, to hold public hearings and clause-by-clause consideration of Bill 177, An Act to amend the Municipal Act, 2001, the Municipal Elections Act, 1996 and other Acts consequential to or related to the enactment of the Municipal Act, 2001 and to revise the Territorial Division Act.

(2) That amendments to Bill 177 be received by the clerk of the committee by Monday, November 18, 2002, at 3:30 pm.

(3) That advertisements be placed on the Ont.Parl channel and the Legislative Assembly Web site. The clerk of the committee is authorized to place the ads immediately.

(4) That the caucus offices of the three parties provide the clerk of the committee with lists of witnesses to be scheduled for public hearings on Bill 177 by Friday, November 15, 2002, at 3 pm. The clerk is authorized to start scheduling witnesses as soon as lists are received. If there are more witnesses wishing to appear than time is available, the clerk will consult with the Chair, who will make decisions regarding scheduling.

(5) That the Association of Municipalities of Ontario (AMO), the Association of Municipal Managers, Clerks and Treasurers of Ontario (AMCTO), and the city of Toronto be invited to appear before the committee on Bill 177.

(6) That witnesses be offered 10 minutes in which to make their presentations on Bill 177.

(7) That the deadline for those who wish to make an oral presentation on Bill 177 be Thursday, November 14, 2002, at 3 pm and the deadline for written submissions on Bill 177 be Monday, November 18, 2002, at 3:30 pm.

(8) That the clerk of the committee, in consultation with the Chair, be authorized, prior to the passage of the report of the subcommittee, to commence making any preliminary arrangements necessary to facilitate the committee's proceedings.

The Chair: Any comments on the subcommittee report? Seeing none, I put it to the entire committee. All those in favour of accepting the report? Carried.

ANTHONY PERRUZZA

The Chair: That takes us to our first deputation, Mr Anthony Perruzza. Come forward to the witness table, please. Good afternoon. Welcome to the committee.

Mr Anthony Perruzza: Thank you very much, Mr Chairman. Thanks to the members of the committee for giving me the opportunity to speak here today.

The Chair: If you have a handout, the clerk would be pleased to distribute it for you.

Mr Perruzza: What I'm distributing to you is essentially the form that's required to be filled. I'm going to be speaking specifically to a section of Bill 177 that deals with municipal elections and, more specifically, how and when a person can or can't begin their election campaign.

The form you have in front of you is the form that's essentially filled out by anyone who intends to seek municipal office in an election year. The act specifically states that you cannot raise or spend monies until you've

filled out that form and you've filed it with the municipal clerk. If you are an MP, MPP, municipal employee or school board employee you must either, as an MP or MPP, resign your office or, as a municipal employee or a board employee, take a leave from your job or essentially quit your job.

You can fill out that form at any time during an election year, beginning, I believe, in early January, depending on when the new year falls, and ending, the way you contemplate it now, on the 45th day prior to election day. So let's speak in calendar terms. You can file that form the beginning of January and you can file it any time during 2003 up until September 26, 2003, for the 2003 election campaign.

Now what does that do for a good many people? I think to effectively and fairly seek election to municipal office for the folks I've just mentioned—the MPs, MPPs, municipal employees and school board employees—you really can't communicate that you're running for office to anyone until you take a leave. In explaining it for MPPs, for example, if you decided to run for mayor or run for any municipal office and if your competition registers January 1 and they begin to do the work of the election campaign—fundraising and getting ready and getting themselves organized—you wouldn't be able to compete with them if they filed January 1 until you essentially resigned from your position. Unless you're independently wealthy, I think that would cause some hardship.

I remember Don Cousens in 1994 was a member of this Legislature and decided to run for mayor of Markham. He announced his intention to run for mayor of Markham early that year and then I believe sometime around September—because municipal elections generally fall the second Monday of November—he resigned his position and ran for mayor of Markham. But he essentially during that period organized himself. I believe he did fundraising and got ready to contest the municipal election and quite frankly was successful in doing that.

So the act that you have in front of you and the way that the act is worded really prohibits a number of folks from fairly contesting or fairly seeking municipal office, and I would hope that you would take a close look at that and change it.

I don't believe that the wording currently in the act is politically motivated. I believe that it's just wording that's now also been interpreted by the courts and it does something which I don't believe that anyone here intends it or wills it to do, and that is, it effectively prohibits a number of folks from seeking municipal office on a level playing field with folks who are neither MPs, MPPs, municipal or school board employees.

The Chair: Thank you. Are there any questions? We'll start with the Liberals.

Mr Mike Colle (Eglinton-Lawrence): So it specifically states federal members, sitting members and sitting provincial members. As soon as they file, they have to resign their seat.

Mr Perruzza: This act doesn't do that, but what it does say is that—as you know, in 2000, this was

challenged by two individuals in both camps. One was a fellow named Zeppieri who was a municipal inspector who filed the nomination—

Mr Colle: Oh yes, I remember that. In North York, wasn't it?

Mr Perruzza: In North York, the city of Toronto. He filed the nomination paper, the clerk accepted the nomination paper and he proceeded to do fundraising in getting ready for the election and so on. Then when, I believe it was John Nunziata, the federal member went in to file his nomination paper, there was an interpretation of what "nomination" meant because the federal act requires members of Parliament—as the provincial act also requires the members of provincial Parliament—to resign your seat when you seek municipal office. So when you fill out that form and you take it in, you had to have quit your job in order for the clerk to be able to accept that with the filing fee for you to be a candidate.

Mr Colle: What happened in the Nunziata case? Did they ever rule on that, whether he had to resign?

Mr Perruzza: That's right. They basically said that the way the term "nomination" is defined in this act, he would have had to resign his seat.

Mr Colle: Then it's a board of education employee?

Mr Perruzza: Board of education employees are specifically spelled out in this act as municipal employees are spelled out in this act, yes.

Mr Colle: So for those general categories, anybody working under the employ of the municipality would have to take a leave, basically, in order to be eligible to run.

Mr Perruzza: In order to be able to file that form, in order to be able to communicate that they're running to anybody, in order to raise money, in order to spend money.

Mr Colle: So you, in essence, think this is discriminatory against people, especially—I guess maybe the elected officials are in one category, but then if you've got employees who are punished because they work for a school board or a municipal government or something, they are not eligible. Is that what you're basically saying, that it's not fair to those people?

Mr Perruzza: Precisely. You potentially have hundreds of thousands of people. I don't know how many school teachers there are in this province—I believe it's 127,000 or 130,000—plus all the municipal employees. You have all these folks who can't file that nomination and get ready for a municipal election until they take an unpaid leave from their job in order to compete with someone who doesn't belong to any of those groups and who can file that January 1. They have a huge head start.

Mr Colle: School teachers would be included under this. So if you're under contract, you would have to take a leave from your teaching duties when you file?

Mr Perruzza: I guess the clerk of the city would have to interpret that, because that's not clearly spelled out in there, but it clearly says a board employee or a municipal employee. How that's interpreted, I'm not sure.

Mr Colle: OK, thank you.

Mr Michael Prue (Beaches-East York): A couple of questions. I have a motion here, and I don't want to get into my motion, but are you saying that you believe that MPs or MPPs should be required to resign by nomination day or not at all?

Mr Perruzza: I think that would be reasonable, nomination day being the 45th day, or any other day. If somebody is independently wealthy and they want to do that earlier on, that would be fine, but at least on that 45th day, MPs, MPPs and, if you so desire, municipal employees as well.

Mr Prue: I also have a motion here about municipal employees. Do you believe that municipal employees should be required to take a leave of absence from, say, the 45th day before? Is it consistent that they take one while they're contesting a nomination?

Mr Perruzza: Absolutely. If you're going to be out there campaigning full-time, and I think you'd have to campaign full-time, you can't do your job.

Mr Prue: Well, I suppose, but a lot of municipal employees work in little tiny towns across the province, where it may not be to the same intensity as a Toronto election.

Mr Perruzza: I stand corrected. You're absolutely right.

Mr Prue: OK, but you still would think that a municipal employee should be required to take a leave of absence during that period?

Mr Perruzza: If you're going to do it on a full-time basis in a big municipality where you're going to have to run, that would appear to me to be a reasonable course of action. Again, you're right. In small-town Ontario, in other parts of Ontario, they do it quite differently, as we all know, in which case they might be able to work it out some other way in terms of vacation time or those kinds of things. That would appear to be reasonable as well.

Mr Prue: Those are my questions, thank you.

1550

The Chair: Any questions from the government?

Mr Morley Kells (Etobicoke-Lakeshore): If I may, just a couple of observations which might get into the form of a question.

I know you mentioned a former member, Don Cousens, who is the mayor of Markham now, but I can't recall too many MPs or MPPs who have taken that move of indicating they are going to run municipally and doing so. So from that point of view, I think it's far less likely to happen; it almost never happens.

The reverse with municipal employees and teachers and board of education people: even though you might find this punitive, it would seem to me that in some cases a municipal employee could have a conflict of interest in a certain subject matter, and certainly teachers are very, very active politically, as you know, and aren't loath, regardless of whether they've been nominated or not, to be publicly vocal, to appear in MPPs' offices. So I think there's possibly more danger in what you're suggesting than what we're quite happy not to do.

Mr Perruzza: Conversely, an employee of the province can seek a nomination and obtain a nomination while continuing to be an employee of the province, fundraise for a provincial election campaign and continue to work as an employee of the province at almost every level, and essentially not have to remove themselves from their job until the day the writs are issued. I think the period now is 28 days prior to election day. Federally, I believe the same course of action applies. So why would it be different for a provincial employee as opposed to a municipal employee in that regard?

Mr Kells: Well, if that's your point, that's somewhat different than the comparison to the MP/MPP. In fact, what you are doing then is sawing off a municipal employee or board of education employee against a provincial employee.

I'll give you some credit for that point of view, but setting up the MPP and the MP as the unfair advantage I don't think carries nearly as much weight. I'd be quite willing to see what the amendment that's brought forward by the NDP reads like, but I still think there's an element of, who are we favouring and what are we doing as a government bringing in new legislation?

The Chair: Any further questions? Seeing none, thank you very much for coming before us here today. We appreciate your submission.

Inasmuch as that was the only expression of interest in speaking to the committee, we now move into clause-by-clause consideration of the bill.

Mr David Caplan (Don Valley East): Mr Chair, do the written submissions need to be formally received?

The Chair: No.

Mr Caplan: No acknowledgement of them at all?

The Chair: They have been circulated to all the members of the committee, and if there's anything in any of those submissions that gives rise to any observations, comments or amendments, the appropriate time to raise those would be in the relevant sections.

To that end, the clerk has suggested, and I agree, that since the bill itself makes many references to the schedules, it would be appropriate for us to start our discussions on the schedules. With the committee's indulgence, I will do just that. You'll find those referred to starting at the top of page 3. I beg your pardon, page 5. Are there any comments or amendments relating to schedule A, sections 1 through 32?

Mr Prue: Chair, I have a list for page 5.

The Chair: Page 5 of the bill itself. I beg your pardon, Mr Prue.

Mr Prue: OK. You're getting me confused on what you're on.

The Chair: The first topic before us is schedule A, sections 1 through 32. Any comments or amendments to those sections? Seeing none, I'll put the question. Shall schedule A, sections 1 through 32, carry? They are carried.

That takes us to the first government motion.

Mr Kells: I move that section 33 of schedule A to the bill be amended by adding the following subsection:

“(1.1) Subsection 150(8) of the act is amended by adding the following clause:

“(k) Without limiting anything in clauses (a) to (j), to require the payment by a licensed business of additional fees at any time during the terms of the licence for costs incurred by the municipality attributable to the activities of the business.”

The Chair: Do you wish to speak to the amendment?

Mr Caplan: Just a question, and maybe the parliamentary assistant can clarify. I'm not really certain of the intent of this. It sounds to me a little bit like a tax grab, potentially, for municipalities. Perhaps the parliamentary assistant could explain the reason behind this amendment.

Mr Kells: My understanding of it is that there are costs incurred in this regard by the municipal government and they would like to be reimbursed. It is a slight bit confusing because quite often the policing costs, for example, are incurred by the region and the drive behind this is that the municipality would like to be reimbursed. We're willing to go along, because they can argue that out, but there is definitely a cost to some of these activities. In the case of the municipality of Mississauga they would like reimbursement. We thought it was fair.

Mr Caplan: It seems overly broad that any costs incurred could be levied against a business. There really ought to be some firm guidelines or specificity about how this would be applied and to what extent, what the parameters are limiting a fee that's going to be charged to a business potentially. I'm quite concerned about the open-ended nature of this particular amendment. I don't wish to use a pejorative term, but “tax grab” did come to mind.

Mr Kells: I think the member has a good point and we have staff who'd be happy to address it.

The Chair: Perhaps you could introduce yourself for Hansard.

Mr Peter-John Sidebottom: I'm manager of the governance structure section of the Ministry of Municipal Affairs.

The section is broad because we can't anticipate the kinds of extra fees and charges that may occur to a municipality. There is a provision requiring municipalities to be open and transparent in the calculation of their fees. Municipalities obviously want to keep their fees as low as possible while covering all the costs that are incurred. It does not appear fair to all the businesses in a class to have to bear the legal costs associated with one particular business, so the notion is that if there are costs that are particular to a business, primarily legal or policing costs to any one particular business, then the whole class of business doesn't bear those costs at the next time of licensing, but rather they are charged for that specific one. So the fees generally are kept as low as possible for the routine issuance and inspection of licences, and where there are special costs, be they policing, enforcement or other costs associated, they would only be assessable against that particular business rather than increasing fees generally.

1600

Mr Caplan: I'll be voting against this amendment.

The Chair: Thank you very much. Any other comments? Seeing none, I'll put the question on the amendment. All those in favour of the amendment? Opposed? It's a tie vote. I have to vote to uphold the status quo, so the amendment is lost.

Shall section 33 carry? Section 33 is carried.

Shall sections 34 through 56 of schedule A carry?

Mr Caplan: Don't you have an amendment to section 46, Mr Chair?

The Chair: I beg your pardon. There was a supplementary. Forgive me. Too many pieces of paper.

Shall sections 34 through 45 carry? They are carried.

Section 46 is another government motion.

Mr Kells: I move that section 46 of schedule A of the bill be amended by adding the following subsection:

“(3) Section 283 of the act is amended by adding the following subsections:

“If bylaw passed under subsection 255(2) of old act

“(8) If the city of Mississauga, the city of Toronto or the town of Markham, as the case may be, pass a resolution under subsection 255(2) of the old act and, as of January 1, 2003, are deemed to have passed a bylaw under subsection (5), then, despite subsection (6), the bylaw shall not be repealed by the city of Mississauga, the city of Toronto or the town of Markham, as the case may be, unless the municipality proposing to repeal the bylaw first ceases to provide any pension benefits under the City of Mississauga Act, 1988, section 13 of the City of Toronto Act, 1997 (No. 2) or the Town of Markham Act, 1989, respectively.

“If bylaw not passed under subsection 255(2) of old act

“(9) If the city of Mississauga, the city of Toronto or the town of Markham, as the case may be, do not pass a resolution under subsection 255(2) of the old act,

“(a) despite the City of Mississauga Act, 1988, section 13 of the City of Toronto Act, 1997 (No. 2) or the Town of Markham Act, 1989, the city of Mississauga, the city of Toronto or the town of Markham, as the case may be, shall not provide a contribution for a pension under those provisions and no calculation of a pension or combination of a pension with another pension shall be made under those provisions in respect of service of a council member after that date; and

“(b) any pension benefit earned or accruing under those provisions with respect to service on or before December 31, 2002, shall continue.

“Regulation

“(10) The minister may, by regulation, prescribe transition rules in respect of the matters set out in subsections (8) and (9).”

The Chair: Any comments or questions? Seeing none, I'll put the question. All those in favour of the amendment? Opposed? The amendment is carried.

Shall section 46, as amended, carry? Section 46 as amended is carried.

Shall sections 47 through 56 carry? They are carried.

Section 57 is our next section. That would also be a government motion.

Mr Kells: I move that section 337.1 of the Municipal Act, 2001, as set out in section 57 of schedule A to the bill, be amended by,

“(a) striking out clause (1)(a) and substituting the following:

“(a) in the case of a deficiency of taxes for the body caused by the cancellation, reduction, refund or writing off of taxes, charge back to every such body its share of the deficiency in the same proportions as the bodies share in the revenues from taxes;

“(b) adding the following subsection:

“Retroactive commencement

“(3) This section shall be deemed to have come into force on January 1, 2001, but, for 2001 and 2002, the references to ‘part’ and ‘section 353’ in this section shall be deemed to be references to ‘part XXII.3’ and ‘section 421’ of the old act, respectively.”

The Chair: Any comments or questions on the section? Seeing none, I’ll put the question. All those in favour? Opposed? It’s carried.

Shall section 57, as amended, carry? It is carried.

Any comments or amendments to section 58? Seeing none, shall section 58 carry? It is carried.

Section 59, Mr Kells.

Mr Kells: I move that clause 345(9)(a) of the Municipal Act, 2001, as set out in section 59 of schedule A to the bill, be amended by striking out “30” and substituting “120.”

The Chair: Any comments or questions? Seeing none, I’ll put the question. All those in favour of the amendment? Opposed? It’s carried.

Shall section 59, as amended, carry? It is carried.

Shall sections 60 through 87 carry? Sections 60 through 87 are carried.

There is a new section, 87.1. You’ll find it in the supplementary amendments package.

Mr Kells: I move that schedule A of the bill be amended by adding the following section:

“87.1 Section 465 of the act is repealed and shall be deemed to have never taken effect.”

The Chair: Comments or questions? Seeing none, all those in favour? Opposed? It is carried.

Any comments or amendments to section 88? Seeing none, shall section 88 carry? It is carried.

Section 89, Mr Kells.

Mr Kells: I move that section 474.1 of the Municipal Act, 2001, as set out in section 89 of schedule A to the bill, be amended by adding the following subsection:

“Transitional rules continued

“(2) Despite the repeal of the authority to make a regulation or any provision of a regulation by this act or by the Municipal Statute Law Amendment Act, 2002, relating to a municipal restructuring, any provision for which the authority is repealed setting out transitional rules with respect to bylaws, resolutions, official plans, agreements and assets and liabilities of a municipality, other than provisions dealing with employees, continue

to apply in the same manner as it would have applied if the authority had not been repealed.”

The Chair: Any comments or questions? Seeing none, all those in favour? Opposed? It is carried.

Shall section 89, as amended, carry? It is carried.

Any comments or amendments to sections 90 and 91?

Mr Caplan: We have a 90.1.

The Chair: I beg your pardon. It’s actually a new one but I should do it in sequence.

Any comments or amendments to section 90? Seeing none, shall section 90 carry? It is carried.

A new section, 90.1, Mr Kells. It’s in the supplementary package.

Mr Kells: I move that schedule A of the bill be amended by adding the following section:

“90.1 Paragraphs 1, 3 and 29 of subsection 484(2) of the act are repealed and shall be deemed to have never taken effect.”

The Chair: Any comments or questions? Seeing none, all those in favour? It is carried.

Section 91: any comments, questions or amendments? Seeing none, shall section 91 carry? It is carried.

Shall schedule A, as amended, carry? Schedule A, as amended, is carried.

Any comments or amendments to schedule B, sections 1 through 29? Seeing none, shall schedule B, sections 1 through 29, carry? Carried.

Shall schedule B carry? It is carried.

1610

Any comments, amendments or questions on schedule C, sections 1 through 28? Seeing none, shall schedule C, sections 1 through 28, carry? Carried.

Shall schedule C carry? It is carried.

Schedule D, section 1: any comments or amendments? Shall section 1 carry? It is carried.

The next section is actually a proposal for a new section.

Mr Prue: Mr Chair, first I trust it is in order.

Mr Caplan: I have a question on that, Mr Chair.

The Chair: If you’d like to move it first.

Mr Prue: I would like to move it, yes, and to explain the rationale behind it: it’s three-fold. First of all, the municipal elections—

The Chair: Sorry, Mr Prue. You have to read it into the record first.

Mr Prue: I move that the bill be amended by adding the following section:

“1.1 Section 5 of the act is amended by striking out ‘second Monday in November’ and substituting ‘third Thursday in October.’”

The Chair: Perhaps I can ask for your indulgence for just one moment, Mr Prue.

Mr Caplan: Chair—

The Chair: That would include your indulgence as well, Mr Caplan.

Mr Prue, the problem with this amendment is that section 5 of the Municipal Elections Act, 1996, is not opened by any other amendment in the act before us here today. Therefore, your motion would be out of order. It is

fair for you to seek unanimous consent from the committee members to discuss and/or approve or disapprove of your amendment, though.

Mr Prue: Then I would seek that unanimous consent.

The Chair: Is there unanimous consent? I'm afraid I hear no from both sides. So the motion is out of order.

It would appear, Mr Prue—and we might be able to save some time—that section 9 of the act is also not opened up in the bill before us here today, so the next motion is out of order as well. That would be motion number 6; it's out of order.

Mr Prue: Then I would like to seek unanimous consent on this one as well.

The Chair: Fair enough. Is there unanimous consent? Again I hear noes.

Are there any other amendments or comments or questions on schedule D, sections 2 through 10? Seeing none, shall sections 2 through 10 carry? Sections 2 through 10 are carried.

Section 11, Mr Colle.

Mr Colle: I move that section 11 of the bill be amended by adding the following subsections:

“(2) Clause 33(2)(c) of the act is repealed and the following substituted:

“(c) be accompanied by the prescribed nomination filing fee, which fee is non-refundable.

“(3) Section 33 of the act is amended by adding the following subsection:

“City of Toronto

“(2.1) Despite any provision of this act or the regulations, the prescribed nomination fee for the office of mayor of the city of Toronto is \$1,000 and for the office of councillor of the city of Toronto is \$500.”

This is a motion based on a request not from city of Toronto council but from the clerk of the city of Toronto, who essentially mentions that given the high cost to the municipality and the seriousness of running these elections, these nomination fees for mayor and councillors should be non-refundable.

The Chair: Any comments? All those in favour of the amendment? I see one hand up. All those opposed? I'm afraid the amendment is lost, Mr Colle.

The buck stops with the Chair; I will take responsibility. Actually, we'll go back to Mr Prue's last motion. It is in order, according to the new information coming forward to the Chair now.

Mr Prue: I couldn't figure out for the life of me why that would be out of order.

The Chair: Well, you're awfully indulgent, Mr Prue. I will ask for unanimous consent, but it should not be held against Mr Prue that we reopen section 9 of schedule D.

Mr Prue: I move that section 9 of the bill be amended by adding the following subsection:

“(3) Section 30 of the act is amended by adding the following subsection:

“Vacation and overtime pay

“(3.1) Despite subsection (1), an employee of a municipality or local board is entitled to be paid out any

vacation pay owing to the employee during the period of the unpaid leave of absence and the fact that these payments may be paid on a weekly or other regular basis does not affect the unpaid leave status of the employee.”

By way of explanation, that says that if somebody who is a municipal employee or a teacher or whoever decides in the month of October that they want to go out and campaign, they are on leave of absence, and if they want to use their vacation period during that time and be paid as if it's their vacation, then they can get it. They could, in any event, in certain circumstances ask for a cash-out of their vacation pay, but this just makes it clear that one is entitled to collect vacation pay and to do that as a form of campaigning for office, as opposed to not being paid and then coming back to work and asking for a cash-out. It seems to me to be much fairer to the employee to at least let them use their vacation pay to campaign for office.

The Chair: Any comments or questions?

Mr Kells: We've chatted about this, as you may appreciate. It's sort of a murky area, but I think this is an area where, if they want to get two more weeks in and they have those benefits and want to use them up, then we as the government can't really see anything wrong with that. I think we'll support that, if that's OK.

The Chair: Any other comments? Seeing none, all those in favour of the amendment? It is carried.

So I will ask the new question: shall section 9, as amended, carry? Section 9, as amended, is carried.

I will now ask the question, shall section 11 of schedule D carry? It is carried.

That takes us to the Liberal amendment on page 8. I'm afraid, before you go reading it in, this time I'm told it's out of order.

Mr Colle: I'll withdraw.

The Chair: Number 8 is out of order, so that means we can ask the question, shall sections 12 through 14 carry? They are carried.

The next amendment is a government amendment.

Mr Kells: I move that subsection 15(1) of schedule D to the bill be struck out and the following substituted:

“15(1) Subsection 44(4) of the act is repealed and the following substituted:

“Timing

“(4) A person shall not appoint a voting proxy for an election until the time for the withdrawal of nominations has expired for all offices for which the election is being conducted and the appointment does not remain in effect after voting day of the election.”

The Chair: Any comments or questions? Seeing none, all those in favour of the amendment? Opposed? It is carried.

Mr Kells: I move that subsection 44(6) of the Municipal Elections Act, 1996, as set out in subsection 15(3) of schedule D to the bill, be amended by striking out “the clerk's office shall be open” and substituting “the clerk's office and any other place designated by the clerk shall be open.”

1620

The Chair: Comments or questions? Seeing none, all those in favour of the amendment? Opposed? It is carried.

Shall section 15, as amended, carry? It is carried.

Any comments or amendments to sections 16 through 24? Seeing none, shall sections 16 through 24 carry? They are carried.

That now takes us to page 11.

Mr Prue: I move that section 25 of the bill be amended by adding the following section:

“(2) Section 68 of the act is amended by adding the following subsections:

“Registration

“(4) Any person who intends to seek a nomination for an office may on any day in the year of the regular election that is before nomination day, at a time when the clerk's office is open, register his or her intention to do so.

“Campaign period

“(5) The election campaign period for a person who has registered under subsection (4) begins on the date he or she files the registration and ends on the day he or she cancels the registration or the day provided under subsection (1) if he or she subsequently files a nomination for office under section 33.

“Contributions, expenses

“(6) The provisions of this act that apply to accepting contributions and incurring expenses by a candidate apply to a person registered under subsection (4) in the same way that they apply to a candidate and the registered person shall be deemed to be a candidate for that purpose.”

I hope this does what I intend it to do. With the indulgence of legislative counsel, if I could explain what this is intended to do—

Mr Caplan: It's clear to me.

Mr Prue: Yes. This is in fact the request that Mr Perruzza in his earlier delegation had made. What this allows for is that a person who might otherwise not be entitled to register, in the case of a federal or a provincial member of Parliament or of the Legislature of the province of Ontario, they would have the option of registering for a position—as an example, to be the mayor of Toronto, Hamilton, London or some other large city—and would have the authority to file the application at some point in January, February or March to determine whether or not there was sufficient support to continue, that is, whether a team could be put together or the considerable amounts of money that are necessary to run at this time could be put together, without having to resign his or her seat until nomination day. It would also allow municipal or board employees to register and do the same thing—to try to put a team together, to raise the amounts of money—and they would have that period up until nomination day as well.

Forty-five clear days prior to the election, they would have to, in the case of MPs or MPPs, resign their seat as required under the statute at present, if they were to

continue. In the case of municipal or board employees, they would be required take a leave of absence from that date.

The intent—and I trust that's what is contained here, because when I read it, none of that was contained—is the legislation would allow a level playing field for all Canadian citizens who would be otherwise eligible to seek election. They would not be disbarred from January 1 from doing the necessary groundwork in order to run. The municipal elections are quite different from both the provincial and the federal because, although there is a 28-day writ period provincially and, I think, a 37-day writ period federally, municipal elections require a great deal of work to be done in order to collect funds, register and put together teams which, by all intents and purposes in the absence of a party system, last only for that election. It would allow people an opportunity equivalent to all others in the field and especially equivalent to that of incumbents to have that opportunity, and I would therefore so move.

The Chair: Any comments?

Mr Caplan: I'll be supporting this amendment proposed by my colleague Mr Prue.

The Chair: Any further comments? Seeing none, all those in favour of Mr Prue's amendment? Opposed? The amendment fails.

Shall section 25 carry? Section 25 is carried.

Section 26: any comments or amendments? Seeing none, shall section 26 carry? It is carried.

New section 26.1 is unfortunately out of order. It refers to a section that was not opened up.

The next amendment is annotated as number 13.

Mr Kells: We're dealing with schedule D, section 27 of the bill, clause 77(c) of the Municipal Elections Act, 1996.

I move that clause 77(c) of the Municipal Elections Act, 1996, as set out in section 27 of schedule D to the bill, be amended by striking out “in the year” in two places and substituting “in the 12-month period” in each place.

Mr Caplan: Is this to reflect the concern for the need to have a much more defined period of time as outlined by the Association of Municipal Managers, Clerks and Treasurers of Ontario? Is that what this is?

Mr Kells: There's a possibility of ending up with two years if we don't change—

Mr Caplan: They said a year, and there was some confusion. They just wanted some clarification of that. That's what this is? Yes?

Interjection: Yes.

Mr Caplan: Thank you. I'll be supporting this.

The Chair: Any other comments? Seeing none, all those in favour? Opposed? It is carried.

Shall section 27, as amended, carry? It is carried.

Any comments or amendments to sections 28 through 30? Seeing none, shall sections 28 through 30 carry? They are carried.

Section 31: the first amendment is number 14.

Mr Prue: I move that section 31 of the bill be struck out and the following substituted:

"31. Section 81 of the act is repealed and the following substituted:

"Appointment and role of commissioner

"81(1) There shall be appointed, as an officer of the Legislature, a Municipal Elections Finance Commissioner to exercise the powers and perform the duties set out in this section.

"Appointment

"(2) The Municipal Elections Finance Commissioner shall be appointed by the Lieutenant Governor in Council on the address of the assembly.

"Term

"(3) The commissioner shall hold office for a term of five years and may be reappointed for a further term or terms, but is removable at any time for cause by the Lieutenant Governor in Council on the address of the assembly.

"Compliance audit

"(4) An elector who is entitled to vote in an election and believes on reasonable grounds that a candidate has contravened a provision of this act relating to election campaign finances may apply to the commissioner for a determination of the matter.

"Requirements

"(5) The application shall be made to the commissioner, within 90 days after the filing date or the candidate's supplementary filing date, if any; it shall be in writing and shall set out the reasons for the elector's belief.

"Response from candidate who is the subject of the complaint

"(6) Unless the commissioner considers the complaint to be frivolous or vexatious, the commissioner shall notify the candidate who is the subject of the complaint of the particulars of the complaint and give him or her an opportunity to respond to the complaint in writing.

"Hearing

"(7) Within 30 days after giving notice under subsection (6), the commissioner shall hold a hearing on the matter and members of the public shall be given an opportunity to make representations at the hearing.

"Assistance

"(8) The commissioner may call upon any person for advice in making a decision on the matter, including appointing an auditor licensed under the Public Accountancy Act.

"Documents to be public

"(9) All documents filed with the commissioner shall be made available to the public for inspection upon request.

"Decision binding

"(10) The commissioner shall determine whether or not the candidate who is the subject of the complaint has contravened the act and may impose any penalty authorized under this act.

"Decision in writing

"(11) A decision of the commissioner under subsection (10) shall be in writing.

"Appeal on question of law

"(12) The decision of the commissioner under subsection (10) may be appealed to the Ontario Court of Justice, on a question of law only, within 15 days after the decision is made."

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The Chair: Any comments?

Mr Prue: If I could, by way of background, we have started to see that the section which was previously in the act is causing some considerable problems in municipal councils in Ontario. The two most famous cases probably are those that involve the city of Mississauga and the city of Toronto.

In the case of the city of Mississauga, upon looking at the case of a person the council believed may have contravened the act, they set about a process, the hiring of an auditor, to get to the bottom of the case. It involved some \$100,000 of the city of Mississauga's tax money. They then voted as a council near unanimously to take the alleged offender to court. That has so far resulted in about another \$100,000 in legal fees, and it probably will not be finalized before the next election. So in effect you have a person serving the full three-year term of office whom the auditor, the city council, the mayor, everyone, believe probably has contravened the Municipal Elections Act to get there.

Alternately, you have the case of the city of Toronto, which had two clearly well-documented cases of alleged improprieties against two of the members of the Toronto council. Upon the advice of the council and the mayor, who chose to do nothing, the aggrieved people are still before the courts nearly some two years later trying to get redress and to get people to listen to the complaint. Obviously, it is not working.

So in the case where a city does something, there is a \$200,000 bill attached to it; in the case where a city does nothing, the citizens get no redress.

What this is attempting to do is set out an arm's-length body to the Legislature that would handle all 480 municipalities, where a citizen could come in a one-on-one and make the complaint, and if the commissioner believed something has gone wrong he or she could conduct an investigation. It would not be costly to the cities, the province, nor to the people involved who could make their legitimate complaints and have it adjudicated in short order.

We think this is a far more sensible rationale on how to proceed than is located in the present act or the proposed amendment, and that is why we are moving it. We do so with, I think, the considerable concurrence of the mayor of Mississauga, who feels really raked over the coals on this whole issue. It probably will not get redress in an entire term of that council. I so move.

Mr Caplan: By way of a question to Mr Prue, the Association of Municipalities of Ontario recommended utilizing Elections Ontario for this process of compliance audits. Perhaps you could shed some light on why you

chose to go this route as opposed to what was proposed by AMO.

Mr Prue: What AMO proposed I have never read, to tell you the truth. I have never seen it. I am not in disagreement with that, but this was the best advice given to my staff by legislative counsel, and it was drafted this way. I am not opposed to Elections Ontario having within its ambit or responsibility the opportunity to adjudicate on municipal elections. It seems to me clearly a matter that should be taken out of the individual councils' responsibility both due to cost and in some cases the reluctance of councils to police their own. It seems fairer to all persons that there be an independent body such as Elections Ontario or what we are proposing here, an independent commissioner for all of the 480 municipalities, one person or one group of people to do the job rather than have every municipality set up their own.

The Chair: Any further comments? Seeing none, all those in favour of the amendment? Opposed? It fails.

The next amendment to the same section.

Mr Kells: I move that subsection 31(1) of schedule D to the bill (amending section 81 of the Municipal Elections Act, 1996) be struck out and the following substituted:

"31(1) Subsection 81(2) of the act is amended by striking out 'the filing date or the candidate's supplementary filing date, if any' and substituting 'the later of the filing date, the candidate's last supplementary filing date, if any, or the end of the candidate's extension for filing granted under subsection 80(6), if any.'"

"(1.1) Section 81 of the act is amended by adding the following subsections:

"Delegation to committee

"(3.1) A council or local board may, before voting day in an election, establish a committee and delegate its powers and functions under subsection (3) alone or under subsections (3), (4), (7), (10) and (11) with respect to applications received under subsection (2) and the council or local board, as the case may be, shall pay all costs in relation to the operation and activities of the committee.

"Powers and limitations

"(3.2) A committee established under subsection (3.1),

"(a) shall exercise the powers and duties delegated to it under that subsection with respect to all applications received under subsection (2) in relation to the election for which it is established; and

"(b) shall not include employees or officers of the municipality or local board, as the case may be, or members of the council or local board, as the case may be.

"Appeal

"(3.3) The decision of the council or local board under subsection (3) and of a committee under subsection (3) pursuant to a delegation under subsection (3.1) may be appealed to the Ontario Court of Justice within 15 days after the decision is made and the court may make any decision the council, local board or committee could have made."

The Chair: Questions or comments?

Mr Caplan: Yes, a question: is this amendment to the same effect of the one that was just voted on, allowing the municipality to set up one of these arm's-length committees to be able to, essentially, do compliance audits, that kind of thing?

Mr Kells: It's similar to the responsibilities the opposition member suggested in his amendment.

Mr Caplan: Right, but just having a municipality set up its own committee, as was outlined—

Mr Kells: An arm's-length committee—

Mr Caplan: —by the city of Mississauga.

Mr Kells: The main difference is that it's a municipal cost, as opposed to a provincial cost under Elections Ontario.

Mr Caplan: I wonder if I might ask as well, is there any reason the government didn't decide to go with the proposal that was brought up by the Association of Municipalities of Ontario to have Elections Ontario assume this kind of role or be this kind of tool?

Mr Kells: I think I tried to answer that in answering your first question. I think what we're suggesting is more dramatic, or democratic—it might be dramatic too—and leaves the problem where it began, in the hands of the municipal committee, which is likely to be much closer to the details of what took place and what they are going to be making a judgment upon.

Mr Caplan: OK. I do support municipalities having this tool. I would encourage the government to seek having Elections Ontario be another tool available to municipalities, but I will be supporting this amendment.

Mr Kells: We think the courts are not a bad alternative.

The Chair: Further comments? Seeing none, all those in favour of the amendment? Opposed? It is carried.

Shall section 31, as amended, carry? It is carried.

Section 32.

Mr Colle: Schedule D, section 32 of the bill, subsection 82(5) of the Municipal Elections Act, 1996:

I move that section 32 of the bill be amended by adding the following subsection:

"(5) Subsection 82(5) of the act is amended by striking out 'may provide that all or part' and substituting 'must provide that all'."

It's one of the concerns raised by the clerk of the city of Toronto with regard to surpluses and giving incumbent candidates access to surpluses where new candidates do not have access. It's connected with the fact that there are some excluded expenses. I'll give you an example of two. For instance, there is the traditional fundraising brochure which is excluded from the election expenses act.

As the clerk says, for example, "A candidate may attempt to write off the entire cost of a brochure as a fundraising expense if it included a section requesting contributions, even though the primary purpose of the brochure is candidate promotion."

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So what happens is the candidates issue all these brochures all over the place and on page 6 of the

brochure they have a line that says, "Please contribute to the campaign." So because they have that one line included, the cost of those brochures are not included in the expenses. What happens to those dollars is they basically end up being supposedly not under the regulations and they end up in the candidate surplus fund which he or she can use in the next election.

The second part of that is that what happens also with more and more frequency in the city of Toronto is post-election parties. There has been a case in the city of Toronto where a candidate will spend \$14,000 for a whole campaign and then you'll see at the election party they spend \$28,000. Try and figure out: why would they do that? Well, you know why they would do that: because that means that that \$28,000 basically is not able to be included as expenses and it's also a great way of rewarding their campaign workers.

The city of Toronto's clerk in his comments says, "The city clerk is requesting an amendment be considered to Bill 177 to provide that the candidates' surpluses automatically become the property of the municipality if the municipality has adopted a contribution rebate program. Not only will this offset the cost of providing a contribution rebate program but it will also put all candidates on a level playing field at the start of the campaign period."

These were the concerns raised by the clerks. They've seen this happen in the city, especially with excluded expenses and then these lavish campaign parties at the end which cost twice as much as the whole campaign cost. They are suggesting that we look at that, and that's why I put this amendment forward.

The Chair: Any comment?

Mr Kells: You used a figure, I believe it was \$14,000 for the campaign and \$28,000 for the party. To your own knowledge, are those figures real?

Mr Colle: I recall—this is anecdotal—but I recall in the expenses submitted by certain candidates that there was, as I said, more money spent on the campaign party than there was on the election.

Interjection: Name names.

Mr Colle: You can look at them and see, but I was astonished. I had tried to find out why they would do this, but it seemed to be some candidates' practice—

Mr Kells: I don't really want to get into a great debate about it. You quoted a huge difference—

Mr Colle: The figures were in that range—

Mr Kells: I do know people who have had minor opposition and spent very little money to the tune of maybe a couple thousand dollars and might have had a \$2,500 party, but I don't ever recall the kind of numbers you're throwing around there about the \$14,000 to \$28,000. That's a pretty good party to have \$28,000 to blow. Anyway, I hear you.

Mr Prue: My question is, this, I take it, is not the city of Toronto council position?

Mr Colle: No, it's the city clerk's. I've mentioned that repeatedly. The councillors voted against it. They want to have the parties. The clerk said, "Don't have the parties."

Mr Prue: So the councillors have voted against it?

Mr Colle: Yes, they want to have the parties, obviously.

Mr Prue: The problem I have—and I don't know what all the debate was. I certainly am not going to vote with this if the city of Toronto council has opposed it, but there are councillors who raised upwards of \$100,000 in the last campaign who did not spend it and it sits there waiting for the next campaign. One can say, "Well, I guess that's fair," but then one can also say that it is completely destroying of democracy should anyone want to challenge them, knowing full well that they've already raised more money than they can possibly spend before the election period even opens.

I do have some problem with amassing those huge amounts of money way in excess of what can possibly be spent. I don't know that this particular motion deals with it.

Mr Colle: They want the surpluses to—

Mr Prue: Yes, but that isn't what this does. This talks about the parties, and again, I don't know how widespread that is. But the surpluses, quite frankly, and there isn't a motion to that effect—that's what really troubles me.

The Chair: Any further comments? Seeing none, all those in favour of the amendment? Opposed? The amendment fails.

Shall section 32 of schedule D carry? Carried.

Any comments or amendments to sections 33 or 34? Seeing none, shall sections 33 and 34 carry? They are carried.

A new section 34.1 is out of order as proposed on page 17, so we will go to number 18.

Sorry. Before we do that, section 35, any comments or amendments? Seeing none, shall section 35 carry? Carried.

Section 36, Mr Kells.

Mr Kells: I move that subsection 36(1) of schedule D to the bill be struck out.

The Chair: Comments? Seeing none, all those in favour?

Mr Prue: Can you just tell me what that does?

The Chair: Sorry, Mr Prue.

Mr Prue: I'd just like to find out what that does—because there's no explanation—before I vote for it.

Mr Kells: I'll turn it over to Peter. It has to do with the Education Act and the timing of a leave of absence.

Mr Sidebottom: The same provision is provided for in both the government efficiency bill and in Bill 177 that's before you. Just to clarify that we don't have competing pieces of legislation before the House at the same time, the decision was to move it from this bill and allow it to continue as part of the government efficiency bill where the Ministry of Education is making a series of changes to the election process for school trustees.

Mr Prue: If I disagree with it, my proper place to argue against it is with the government efficiency bill, not here?

Mr Kells: You could argue twice.

The Chair: All those in favour? Carried.

Shall section 36, as amended, carry? Carried.

Section 37, comments, amendments? Seeing none, shall it carry? It's carried.

Shall schedule D, as amended, carry? It is carried.

Schedule E, sections 1 through 6, any comments or amendments? Seeing none, shall sections 1 through 6 carry? Carried.

Shall schedule E carry? It is carried.

Schedule F, any comments or amendments to sections 1 or 2? Seeing none, shall sections 1 and 2 carry? They shall carry.

The table: the first amendment is number 19, Mr Kells.

Mr Kells: I move that the amendment to the English version of subsection 11(1) of the Municipal Elections Act, 1996, as set out in columns III and IV of the table to schedule F to the bill, be struck out and the following substituted:

On the left, I've got III,

"11(1) par/disp 2, 3"—whatever that means.

Over under IV I have,

"Repeal and substitute the following:

"2. The clerks specified in section 11.1 are responsible for certain aspects of the election of members of the council of an upper-tier municipality, as provided for in that section."

The Chair: Comments? All those in favour? That's carried.

Mr Caplan: I had no idea what this was, I must admit.

Mr Kells: We're putting the tables in the act is what we're doing.

Mr Caplan: Yes. I had a lot of trouble finding it.

The Chair: OK. Your hand went up, so it is approved.

Mr Caplan: No, no. It's the tyranny of government majority.

1650

The Chair: Number 20, Mr Kells.

Mr Kells: I move that the English version of sections 11.1 and 11.2 of the Municipal Elections Act, 1996, as set out in columns III and IV of the table to schedule F to the bill, be struck out and the following substituted:

Under IV, add the following section:

"Special case

"11.1(1) Subject to subsection (2), this section applies to an upper-tier municipality if a member of the council of the upper-tier municipality is to be elected to the council by the electors of all or part of one or more lower-tier municipalities within the upper-tier municipality.

"Exception

"(2) This section and section 11.2 do not apply if the member mentioned in subsection (1) is to be elected also to the council of a lower-tier municipality within the upper-tier municipality.

"Responsibility of upper-tier clerk

"(3) Subject to subsection (5), the clerk of the upper-tier municipality is the person responsible for conducting

an election for the office of a member mentioned in subsection (1).

"Filing of nominations

"(4) Nomination for the office shall be filed with the clerk of the upper-tier municipality who shall send the names of the candidates by registered mail within 48 hours after the closing of nominations to the clerk of each lower-tier municipality in which the election is to be held.

"Responsibility of lower-tier clerk

"(5) The clerk of each lower-tier municipality in which an election is to be held for the office of a member mentioned in subsection (1) is the person responsible for conducting the election in the lower-tier municipality and shall promptly report the vote recorded to the clerk of the upper-tier municipality who shall prepare the final summary and announce the result of the vote."

Now over in 11.2 we add the following section:

"Regulations

"11.2(1) Despite this act, the minister may by regulation provide for those matters which, in the opinion of the minister, are necessary or expedient to conduct the election of the members of the council of an upper-tier municipality that is mentioned in section 11.1 and the members of the councils of its lower-tier municipalities.

"Scope

"(2) A regulation under subsection (1) may be general or specific in its application."

Mr Caplan: I'd ask the parliamentary assistant to explain it, but—

Mr Kells: I'm going to ask my learned friend.

Mr Sidebottom: With the consolidation of a number of acts into the new Municipal Act, what it resulted in was that there were provisions related to the election of the upper tier in both Halton and Waterloo being brought forward into the Municipal Elections Act and providing a role for the upper-tier clerk. However, as we looked at it further, there is a general authority in the new Municipal Act that allows all upper tiers to consider the method of election, but the election provisions themselves were limited to simply Waterloo and Halton.

What was done was, we took the provisions that applied to Waterloo and Halton and generalized them so that they would apply to any upper-tier that chose to change the method of election for the head of upper-tier council or other members of upper-tier council.

The Chair: Seeing no further comments, all those in favour? It's carried.

Shall the table, as amended, carry? The table, as amended, is carried.

Shall schedule F, as amended, carry? It is carried.

We will go back to the sections now. Are there any comments or amendments to sections 1 through 9 of the act?

Mr Kells: I don't know if I'm out of order, Mr Chair, and you would help me, I'm sure. We're wondering if there's unanimous consent to reopen; I don't even know if we can do that. Let's try it again. Section 33 of

schedule A to the bill was defeated by the opposition. Is there unanimous consent to reopen?

Mr Prue: Is this motion number 1?

Mr Kells: It was (1.1), subsection 150(8) of the act.

Clerk of the Committee (Ms Tonia Grannum): Yes, motion number 1.

Mr Colle: I'll move unanimous consent.

The Chair: Do we have unanimous consent? It's agreed.

Mr Kells: Thank you very much.

The Chair: Since it's been put before, why don't I simply ask the question? All those in favour of amendment number 1, which was section 33? Opposed? It is carried.

Shall section 33, as amended, carry? Section 33, as amended, is carried.

That takes us back to the bill itself. Any comments or amendments to sections 1 through 9? Seeing none, shall sections 1 through 9 carry? Sections 1 through 9 are carried.

Shall the long title of the bill carry? Carried.

Shall Bill 177, as amended, carry? Carried.

Shall I report the bill, as amended, to the House? Agreed.

With that, we have completed our clause-by-clause consideration of Bill 177. Thank you to members of the committee. The committee stands adjourned until Wednesday.

The committee adjourned at 1655.

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Wednesday 20 November 2002

Journal des débats (Hansard)

Mercredi 20 novembre 2002

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LEGISLATIVE ASSEMBLY OF ONTARIO

ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

STANDING COMMITTEE ON
GENERAL GOVERNMENTCOMITÉ PERMANENT DES
AFFAIRES GOUVERNEMENTALES

Wednesday 20 November 2002

Mercredi 20 novembre 2002

The committee met at 1537 in committee room 1.

SUBCOMMITTEE REPORT

The Chair (Mr Steve Gilchrist): I call the standing committee on general government to order for the purpose of holding public hearings on Bill 175, An Act respecting the cost of water and waste water services and Bill 195, An Act respecting safe drinking water.

The first order of business will be the tabling of the subcommittee report.

Mr Garfield Dunlop (Simcoe North): Your subcommittee met to consider the method of proceeding with Bill 175, An Act respecting the cost of water and waste water services and Bill 195, An Act respecting safe drinking water, and recommends the following:

(1) That the committee meet for the purpose of public hearings concurrently on Bill 175 and Bill 195 on Wednesday, November 20, 2002, and Thursday, November 21, 2002, in Toronto; on Friday, November 22, 2002, in Ottawa; Wednesday, November 27, 2002, in Toronto; and Monday, December 2, 2002, in Walkerton.

(2) The committee will commence at 3:30 pm in Toronto on November 20 and 27, and will meet from 9:30 am to 12 pm and 3:30 pm to 5 pm in Toronto on November 21, and will meet from 10:30 am to 12 pm and 1 pm to 3 pm in Ottawa, and from 9:30 am to 12 pm and 1:30 pm to 6 pm in Walkerton. Times are subject to change and based on witness response and travel logistics.

(3) That the committee meet for the purpose of clause-by-clause on Bill 175 and Bill 195 on Wednesday, December 4, 2002.

(4) That amendments to both Bill 175 and Bill 195 be received by the clerk of the committee by 12 pm on Tuesday, December 3, 2002.

(5) That an advertisement be placed on the OntParl channel, the Legislative Assembly Web site and in the English dailies and the French daily that serve the locations that the committee is holding hearings. And that a press release be distributed to English and French papers across the province. The clerk of the committee is authorized to place the ads immediately.

(6) That the deadline for those who wish to make an oral presentation on Bill 175 and Bill 195 be 5 pm, three days prior to the hearing date in each location.

(7) That the deadline for written submissions on Bill 175 and Bill 195 be 5 pm on Monday, December 2, 2002.

(8) The clerk is authorized to start scheduling witnesses. If there are more witnesses wishing to appear than time is available, the clerk will consult with the Chair who will make decisions regarding scheduling.

(9) That individuals be offered 10 minutes in which to make their presentations and organizations be offered 15 minutes in which to make their presentations. Witnesses will be afforded one presentation slot to speak to both bills.

(10) That a summary of witness presentations will be prepared for the committee by 12 pm on Tuesday, December 3, 2002.

(11) That the clerk of the committee, in consultation with the Chair, be authorized prior to the passage of the report of the subcommittee, to commence making any preliminary arrangements necessary to facilitate the committee's proceedings.

I move that.

The Chair: Mr Dunlop has moved the adoption of the subcommittee report. Any comments or questions? Seeing none, I'll put the question. All those in favour of the adoption of the subcommittee report? It's adopted.

SUSTAINABLE WATER AND
SEWAGE SYSTEMS ACT, 2002LOI DE 2002 SUR LA DURABILITÉ
DES RÉSEAUX D'EAU ET D'ÉGOUTS

SAFE DRINKING WATER ACT, 2002

LOI DE 2002 SUR LA SALUBRITÉ
DE L'EAU POTABLE

Consideration of Bill 175, An Act respecting the cost of water and waste water services / Projet de loi 175, Loi concernant le coût des services d'approvisionnement en eau et des services relatifs aux eaux usées; and Bill 195, An Act respecting safe drinking water / Projet de loi 195, Loi ayant trait à la salubrité de l'eau potable.

ONTARIO SEWER AND WATERMAIN
CONSTRUCTION ASSOCIATION

The Chair: That takes us to our first presentation. It will be from the Ontario Sewer and Watermain Construction Association. Good afternoon and welcome to the committee. Just a reminder that we have 15 minutes

for your presentation today. You can divide that as you see fit between your actual presentation or questions and answers. If there are questions, they'll start in rotation. The floor is yours.

Mr Sam Morra: Good afternoon, Mr Chairman and members of the committee. My name is Sam Morra and I'm the executive director of the Ontario Sewer and Watermain Construction Association. On behalf of the 700-plus members, we are pleased to have this opportunity to present our views on Bill 175, the Sustainable Water and Sewage Systems Act.

Before doing so, let me tell you a bit about OSWCA. Our association has been representing the sewer and water main construction industry across the province for over 30 years. Our members perform over 95% of all sewer and water main construction in Ontario. We build and maintain Ontario's vast underground networks of core infrastructure that are the veins and arteries of this province, so as our members appear before the committee, you are literally hearing from the voices in the trenches.

OSWCA is committed to the maintenance of Ontario's core infrastructure in order to ensure a plentiful supply of clean water and the preservation of our rivers and lakes. We know that Ontario's health and environment are dependent upon the effective management of our water and sewage systems. It is vital to create a climate of sustainable investment in our clean water infrastructure.

Our association was a major force in the creation of the provincial water protection fund to help municipalities deal with the provincial transfer of water and waste water services. We also played a significant role in promoting the national infrastructure program that focuses on green infrastructure.

OSWCA is of the view that Bill 175 is long overdue. We believe that creating a healthy water supply can only come with continuous investment by government and consumers. Bill 175 is an important step toward ensuring that Ontario's water and sewage systems are financially sustainable, while improving public health and the environment.

Our members have witnessed a steady decline in Ontario's water and sewage infrastructure over the past 20 years. They will give you real-life examples of the deterioration during these proceedings. This is not a problem that has been created overnight nor is it the fault of any single level of government or any one political party. There has been a systematic generation of neglect.

Governments tend to invest in visible above-ground improvements such as new ice rinks or community centres. Let's face it, we all know that they make for better ribbon-cutting ceremonies. Governments tend to put off capital expenditures not visible to the public, especially underground pipes. As a result, we are faced with a critical need to address our water and sewage infrastructure deficit.

OSWCA has been advocating full cost pricing and accounting legislation for many years. We believe it's the only way to secure a steady flow of much-needed new

infrastructure investment while protecting public health and the environment. It is also a means to stabilize business cycles and effect proper planning for our members and municipalities.

As you know, full cost pricing for water and sewage services is a key recommendation of Justice O'Connor's report and we want to commend the government for moving to implement this policy. We also commend the government for including in the legislation the requirement that municipalities establish dedicated reserve accounts for clean water infrastructure purposes.

While we support Bill 175 and believe it is a good framework, we also believe this bill must be strengthened if we are truly intent on achieving the goal of creating sustainable water and sewage systems. As the bill now stands, there is too much left to regulation and not enough provisions entrenched in the legislation.

Let me review OSWCA's suggested amendments for you. First, full cost pricing should be legislated as mandatory for all municipalities. Putting this principle in the legislation will signal the government's serious intent. More importantly, it will ensure that full cost pricing becomes a reality in Ontario. While we support the notion that municipalities should be allowed flexibility in how they achieve this goal, we don't think there should be any flexibility about whether they implement full cost pricing.

Second, the legislation should be amended to include a specific date for compliance. We recommend that the government phase in the policy change over a five- to eight-year period. This will help municipalities manage the transition to full cost pricing and protect consumers from undue rate hikes.

Third, we think the legislation should entrench the user-pay principle to prevent municipalities from being able to hide the costs of water and sewage services within their tax base. Although some municipalities say they are already charging full costs for water and sewage services, no one really knows if that is the case. We understand that the SuperBuild corporation is nearing the completion of two more reports. We anxiously await the results of their studies. Only through a transparent user pay method will conservation occur. As Justice O'Connor said, requiring people to pay the full cost of water used "gives them a better appreciation of the value of water, and encourages them to use it wisely." That's on page 317 of his report.

Fourth, we believe the legislation could be improved with a more rigorous definition of full cost pricing. This will help ensure a level playing field where consumers and municipalities will know what they are paying for and the same costing methodologies will be in place across the province. As Justice O'Connor said, "Without a uniform definition, the requirement for a financial plan for municipal water systems would be undermined by divergent interpretations of the requirement."

Finally, fifth, the legislation should be amended to include metering. Metering is the most effective way to ensure that each user's consumption is tracked and billed.

Allowing consumers to see exactly the amount of water they use and its relation to cost will promote conservation, efficiency and environmental protection. Justice O'Connor also agrees that metering is essential. He said: "Metering makes sense for reasons of conservation and efficiency. Even though installing meters can be expensive, the cost will normally be recovered in time through reduced water usage and lower infrastructure costs." That's page 317 of his report.

We all know that there needs to be a financial commitment up front from the province to make this work. The time to act is now. If this legislation and our proposed amendments come into force, the government will need to ensure both environmental and financial compliance by municipalities. This may be a monumental task for one ministry alone to oversee. With that in mind, OSWCA is suggesting that the best way to ensure that the legislation is implemented as intended is to amend the legislation to dictate which ministry is responsible for overseeing the environmental aspects of the bill and which is responsible for the financial aspects of the bill. We recommend that the Ministry of the Environment maintain environmental oversight while the Ministry of Finance, through SuperBuild, be given the financial oversight responsibility.

We also have a few housekeeping amendments which will ensure a smooth transition to full cost pricing. For example, we propose that the legislation be amended so that municipalities are required to pass a bylaw to give effect to the full cost recovery plans. Another housekeeping amendment to be considered is the right to appeal a decision and sanctions for those who don't comply. It is customary to have appeals and sanctions laid out in legislation and we recommend that you do so in order to promote compliance. Regulation-making powers should also be included in the legislation. As a safeguard, ministerial regulation-making power should be broad and flexible enough to anticipate future needs and changes.

1550

In summary, in addition to those housekeeping items, OSWCA's suggested amendments are as follows: make full cost pricing mandatory for all municipalities by a specific deadline and consider a phase-in of five to eight years; entrench the user-pay principle to promote transparency and conservation; include a more rigorous definition of full cost pricing in the legislation to eliminate any potential uncertainty about the requirements; make water metering mandatory and divide ministerial responsibility for compliance between the Ministry of the Environment and the Ministry of Finance through SuperBuild.

These amendments will help the province hold municipalities accountable for having responsible practices and plans in place, protect consumers from undue rate hikes and give them a better understanding of the issues and the importance of conservation, ensure our water and sewage systems will be financially sustainable and environmentally sound, and protect public health.

In closing, I want to thank you for the opportunity to address the committee and I look forward to any questions that you may have.

The Acting Chair (Mr Raminder Gill): We have four minutes left, so we can divide it among the caucuses.

Mr Mike Colle (Eglinton-Lawrence): Thank you for your presentation, Mr Morra. What percentage of Ontario households or municipalities have a metering system for their water, as opposed to a flat rate? Do you have any idea?

Mr Morra: Our estimate is that it's upwards of 75% at this time, Mr Colle. Over the last decade, that's probably gone up from about 50% 10 years ago. They're heading in the right direction. We just believe that there should be a level playing field and all households should be metered, as well as industrial users.

Mr Dave Levac (Brant): Hi, Sam. Thanks for your presentation. I know I was a little late, but I'm aware of some of the concerns you've raised. I want to go back to metering for just a short observation. Some municipalities believe that moving to metering is a cost that is very difficult to bear in terms of rural versus urban and the total population, the shared costs, and some people seem to be satisfied with what the present is giving them. There's a relationship that's been made between the cost of a bottle of water and paying at the tap. What do you say to the people who may say to you, "It's easy to say 'go to meters,' but we're quite satisfied the way things are going"? Is it an assumption that they are not paying their fair share in that expectation?

Mr Morra: Not necessarily. The lump sum price for water in some jurisdictions, like the city of Toronto, tries to reflect an average use among the population. They may in fact be paying a little bit more if they're paying lump sum if they're a typical family that doesn't overuse their water privilege. What we found, however, is that when it's on a flat rate basis, people tend to abuse that system and water their lawns excessively, fill their pools, wash their cars, wash their driveways and do things that really shouldn't be taken for granted with water.

Ms Marilyn Churley (Toronto-Danforth): It's nice to see you. We've had many discussions about this in the past so, given the limited time, I want to come directly to full cost recovery, because there's going to be a lot of discussion around that. Justice O'Connor doesn't recommend a particular model. What I want to ask you is this. It seems to me that the bill as we read it now does not deal with the capital requirements to bring the systems up to standard and that municipalities, especially smaller ones, are quite rightly concerned about not being able to pay the full cost of getting the systems up to standard and that the system operators will have to pay for that. Although most of us agree in principle with full cost recovery, I'd like your opinion on what portion should be paid in partnership with the municipalities by the province.

Mr Morra: I think that will vary on a municipality-by-municipality basis. Once you get up over 2,000 to

3,000 people in population, there's no reason why, for the most part, they should not be able to move to a fully sustainable system. There are situations with smaller municipalities that perhaps should be looking at different alternatives in terms of partnering with sister municipalities that may be nearby to see if there are any economies of scale in working together.

Having said that, I think we all know there will be limited cases of have-not municipalities that will require some assistance. We have told the government that there should be a transitional assistance plan for those municipalities to help get them up to snuff, but at least have them moving toward a full cost recovery rate in the interim.

The Acting Chair: Ms Churley, I'm sorry, your time is up. PC caucus, any questions? We have one minute.

Mr Dunlop: First of all, I want to thank you for being here today and bringing out the interesting points. I also want to thank you for your organization's contribution. I know you're representing about 90%—is that what you said earlier?—of the—

Mr Morra: Ninety-five per cent of all sewer and water main construction, linearly speaking, is done by OSWCA members.

Mr Dunlop: It's got nothing to do with the legislation, but can you tell me, in terms of dollars in the province, what that generates, roughly speaking?

Mr Morra: That represents approximately \$1 billion of work that's done in the province, both from a municipal perspective of reconstructing sewers and water mains and also new development in terms of subdivisions and site servicing and that sort of thing as well.

Mr Dunlop: I notice you've got some proposed amendments as well that you're suggesting.

Mr Morra: Yes, I've submitted them to Ms Grannum and I hope that you consider them seriously.

The Acting Chair: Thank you. We're out of time.

KOVACS SAND AND GRAVEL DURHAM REGION HEAVY CONTRACTORS ASSOCIATION

The Acting Chair: Our next presenter is from Kovacs Sand and Gravel and Durham Region Heavy Contractors Association. If you can state your name, please, we have exactly 15 minutes. You can use the time any way you like and leave time for questioning, if you like.

Mr Greg White: My name is Greg White. Good afternoon, Mr Chairman and members of the committee. I'm the manager of Kovacs Sand and Gravel and I'm also the president of the Durham Region Heavy Contractors Association. Our organization and the place where I am employed are in the Durham region.

Kovacs Sand and Gravel is a business that supplies aggregates to both publicly and privately funded projects, as in reconstructions, roads, winter sands, masonry sands and so on and so forth. The Durham Region Heavy Construction Association is an association of contractors,

as well as suppliers. We have a monthly meeting. We meet with all of the local municipalities in the Durham region and we discuss problems that the region has and we have. We try to get things standardized so that across the board things go a lot more smoothly, and it works. It works very well, actually. We seem to get along pretty well down there. That's par for the course for that group.

Naturally, both Kovacs Sand and Gravel and the Durham Region Heavy Construction Association are committed to the maintenance and expansion of the province's vast network of water and waste systems. We are therefore supportive of Bill 175, because maintaining a plentiful and healthy water supply requires a continuous investment by government and consumers. The legislation is an important step toward ensuring that Ontario water and sewer systems are financially stable, good for the public health and good for the environment.

In the town I live in, the storm systems and the sewer systems end up combined. This summer we had an amazing amount of rain in a short period of time and the sewage systems actually backed up in some of the basements. It was a standard practice of the day to design systems like this, but for all the people who are living in the south end of our town, unfortunately their basements got flooded out. It's a system that is inadequate for all the building—the more you build, the more the watershed is suddenly shipped into the city, down the roads, and it seems to magnify itself as the construction process continues. The practices they're doing now work quite adequately, but unfortunately it still siphons down into the older sections of town and it causes a lot of difficulties for the people in that town.

In the village to the north of the community, every time they have a substantial amount of rain they're forced to dump their sewage into the river. That amount of rain actually is about a half an inch, which is a thunderstorm in the middle of the summer, so to speak. I believe they're making plans to try and change this, but at the present time and for the last few years they've had to dump raw sewage into the river, as well as the community I live in.

1600

A few years back, I was up in Iroquois Falls. There's a project going on up there where they were actually replacing wooden water mains with lead main cocks and lead laterals. The cast iron water main is actually packed with lead all around it. That's what prevents the water from leaking. The system is very old, archaic and probably a little bit on the unhealthy side.

We've been in favour of full cost pricing and accounting legislation for many years. We believe it's the only way to secure much-needed new upgraded infrastructure and to protect public health and the environment. It is also a means of stabilizing business cycles and planning for us. With this in mind, we want to commend the government for moving to implement this policy.

We support Bill 175 and are particularly pleased that there is a section in the legislation that requires municipalities to have dedicated reserve accounts. While we

believe the bill is a good framework, it is our view it must be strengthened if we are to achieve the goal of creating sustainable water and sewage systems. As the bill now stands, there are many loopholes where municipalities may try to skate around what should and needs to be done.

I'm aware the Ontario Sewer and Watermain Construction Association has made suggestions for strengthening this bill and we support these amendments; I believe Sam just went over some of the points.

If this legislation and the proposed amendments come into force, the government will need to ensure both environmental and financial compliance by municipalities, and that is a big task for any one ministry to do. As suggested, the Ministry of the Environment would look after environmental issues and the Ministry of Finance would look after the financial portion of this bill.

Thank you for hearing me today.

The Acting Chair: Thank you. We have about seven minutes, so we can start with Ms Churley, if you wish.

Ms Churley: Thank you very much for your presentation. Did you have a chance to look at the Safe Drinking Water Act as well, or you're just speaking specifically to the other bill, are you?

Mr White: I have seen it briefly.

Ms Churley: In your work, do you work directly with municipalities?

Mr White: Yes.

Ms Churley: I just wanted to come back to full cost recovery. As I said to the previous speaker, in principle everybody seems to support it, but one of the things we have to get real about is that some municipalities don't have the money for the huge infrastructure costs to bring their systems up to date.

For instance, we saw when the government brought in new regulations after the tragedy in Walkerton, which required by a certain date certain new standards to be met, that some municipalities didn't have the resources to meet those standards. What happened is, the government extended the deadline for them to meet those requirements. I'm really concerned that, just as in principle we support full cost recovery, we make sure the resources are there to actually meet the requirements. I'm wondering if you have any thoughts on what kind of model could be used so that municipalities can actually afford to do it.

Mr White: The systems they would be putting in place would have a lifespan of probably 40 to 50 years and the poorer of the communities would definitely need some sort of aid and would probably have to pay off that system over a period of time. The system itself would last long enough that they would be able to achieve that goal, but they would probably need a bit of assistance for some communities. If you have a community of 150 people with a water system, obviously that community itself is going to need some assistance, but the lifespan of the upgraded system itself would be so long that they could pay that off over time.

Ms Churley: Do you see the provincial government having any role in partnership with the municipalities to help support very expensive capital investment?

Mr White: In some cases, they probably will have to have some sort of partnership in a limited role.

Ms Churley: Do I have another—

The Acting Chair: Thank you, Ms Churley.

Ms Churley: I guess I don't. Thank you.

Mr Dunlop: Thank you very much for coming today, Mr White. I was curious when you mentioned some of the problems you had seen in your region with the infiltration in the sewer system that allowed storm water in and it backed up and the sewage plant would have to discharge into the river.

Mr White: Oh, absolutely, it's just overwhelmed. It literally has to close its gates and just let it go. It has no choice.

Mr Dunlop: What's interesting, though, is that's sort of the standard of design we've seen in the past. What I see today happening—and particularly when I see thousands of homes being built around the province—are very aggressive types of development agreements where storm water is managed in ponds, where we're seeing state-of-the-art piping used now as opposed to—I think I heard you say "a wooden water main" a little while ago.

Mr White: Yes.

Mr Dunlop: That has to be a fairly old system.

Mr White: It's very old.

Mr Dunlop: When you're dealing with the heavy construction association and contractors, very similar to what Mr Morra was mentioning earlier, how much of your work is actually replacement of old water mains, old sewer mains, old storm water, so we're getting some modern piping in the ground? It's something we've been hearing about worldwide, over the last 100 years pipes have started to deteriorate etc.

Mr White: Our volume is largely based on new projects because in new projects you're building all new roads, new sidewalks, new driveways, where in reconstruction you're tunnelling down, so to speak. You're running a water main or sewer main and you're repairing that small portion. Sometimes they reconstruct a whole street and sometimes they don't.

In terms of the split in projects, it's probably a 40% split. The larger volume of material would go into the newer projects, but the amount of work is just that it doesn't take the volume of aggregates we supply at new subdivisions when you're running a water main.

Mr Dunlop: I think it's safe to say we want to eliminate as much as possible storm water flooding the sewers.

Mr White: Oh, absolutely.

The Acting Chair: Thank you, Mr Dunlop. Your time is up.

Mr Colle: Mr White, I was in East York in an old part of Toronto. Seven per cent of sewers right here in the old East York are still combined. Do you have any idea—or maybe I should ask someone who's here to put it on the

record later—of the percentage of combined sewers in municipalities in Ontario that are remaining?

Mr White: You would have to ask that question of someone who has more facts on that than I do.

Mr Colle: I just want to put that on so that we can get someone to give us that information later. Thanks.

Mr Levac: Thank you for your presentation, Mr White. One of the concerns that's been laid out with this legislation is that it doesn't say anything about higher rates becoming a burden to those on fixed incomes or those who are of smaller means. Would you support some type of program that the government would introduce to ensure this full cost recovery does not affect those who can't afford it?

Mr White: Everybody has to pay for what they use. I live in a community without meters. We are allowed to water every other day, and every other day there are people who water their lawn non-stop. They wash their siding, they wash their boat. The average guy in the public has very little knowledge of water systems, how they work and how costly they are. I believe that if people have to pay for what they use—if you pay 70 cents a litre for gas, you start to conserve a bit. I think it's key that you pay for what you use, especially today.

Mr Levac: OK. Specifically, do you believe municipalities should be able to sell off their plants and sewers?

Mr White: No. I believe that public utilities should remain public utilities.

Mr Levac: Thank you for that commitment.

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C&M McNALLY ENGINEERING CORP

The Acting Chair: Our next presenter is from C&M McNally Engineering Corp. State your name, please. You have 15 minutes.

Mr Chris McNally: Good afternoon, Mr Chairman and members of the committee. My name is Chris McNally, and I am a director with C&M McNally Engineering Corp. Our family has been in the sewer and water main business for two generations, and I am pleased to have this opportunity to present my views on Bill 175, the Sustainable Water and Sewage Systems Act.

We have installed water mains and sewers ranging from services across a highway for a few thousand dollars all the way up to the western beaches combined sewer overflow tunnel, which we just completed for the city of Toronto and which cost tens of millions of dollars.

Our work typically involves excavating tunnels under obstructions, be they roads, rivers, lakes, parks or forests, and on occasion even golf courses. All our tunnels are big enough that when they're finished you can walk through them. We have constructed tunnels for sewers all the way across the province—Windsor, Kitchener, Hamilton, Burlington, Toronto, Ottawa—and outside Ontario. However, due to the size and age of the services in Toronto, most of our work is here in the greater Toronto area.

Naturally, since our company's business is the maintenance and expansion of the province's vast network of water and waste water systems, we are supportive of Bill 175, because maintaining plentiful, healthy water requires a continuous investment by government and consumers, and over the last years, it has not been receiving enough investment.

This legislation is an important step toward ensuring that Ontario's water and sewer systems are financially sustainable, good for public health and environmentally friendly. Currently, we are faced with a critical need to invest in our water and sewage infrastructure. If anything came home from the Walkerton inquiry, it was the terrible condition of the water and sewer services in the town of Walkerton. Hopefully there are not many more like that.

In our work we have seen the environmental benefits that improvements to a city's sewer system can yield. A CSO project like the one in western beaches in Toronto is capturing tens of thousands of cubic metres of runoff water that is mixed with sanitary sewage. This CSO, or combined sewer overflow, material that Mr White just spoke about was entering Lake Ontario unnoticed for decades, and no one really knew what the city of Toronto was dumping into the lake. I can assure you that I've seen it and it's disgusting.

We have connected 10 of the city's outfall sewers into Lake Ontario to this system. There are dozens more that the city of Toronto has been dumping into Lake Ontario. As the snow melts, the sewage is running into the lake. I am told there are over 1,000 sewer connections that drain directly into the Don River alone.

The problem always is funding. The city engineers know what needs to be done, but they are in a constant fight with budgets and the politicians, because it's much nicer to shake hands in front of an arena than in front of a manhole cover or an outfall sewer that has been disconnected. The city engineers know what needs to be done, but they need the money.

For this reason, we have been proponents for full cost pricing and accounting legislation for many years. We believe it is the only way to secure the much-needed new and upgraded infrastructure and to protect public health and the environment. It's also a method for us to stabilize business cycles in the sewer and water main industry, which allow contractors, engineers and towns to do better planning and also allow us to establish stable careers for our workforce. Historically, our workforce has had to grow and shrink every time Mr Chrétien wants to get re-elected and has a heroin fix for cities and gives them some free money so they can go off and do some services. We hire a bunch of people, get them trained and get them going, and then all of a sudden the towns don't have any money left and we have to lay them off and they have to go and find other work. If we had stable funding, we would be able to build a stable workforce to replace our workforce, which is aging. I think the average age of our workforce at the moment is over 50. With this in mind, we commend the government for moving to implement this policy.

We support Bill 175 and are particularly pleased with the section in the legislation that requires the municipalities to establish dedicated reserve accounts. Time and time again, stories are told of municipalities that raid sewer and water funds because they want a bridge somewhere or an upgrade to public transit or some other important service, but not sewer and water.

We believe the bill is a good framework, but in our view it must be strengthened if we are to achieve the goal of creating sustainable water and sewer systems. As the bill now stands, there is too much left to regulation and not enough provisions entrenched in the legislation. I am aware that the Ontario Sewer and Watermain Construction Association has made suggestions here today for strengthening the bill, and we support those amendments. Let me run through the amendments for you again.

First, full cost pricing should be legislated as mandatory for all municipalities. Putting this principle in legislation will signal the government's serious intent and, most importantly, will ensure that full cost pricing becomes a reality in Ontario. While we agree with the concept that municipalities should be allowed flexibility in how they achieve this goal, we do not think there should be any flexibility in whether they need to implement full cost pricing.

Second, the legislation should be amended to include a specific date for compliance. We recommend that the government phase in this policy change over a five- to eight-year period. This will allow municipalities to manage the transition to full cost pricing and protect consumers from undue rate increases.

Third, we think the legislation should entrench the user-pay principle, to prevent municipalities from being able to hide the costs of water service within the property tax. Only through a transparent user-pay method will conservation occur. As Justice O'Connor said, requiring people to pay the full cost of the water they use "gives them a better appreciation of the value of water, and encourages them to use it wisely."

Fourth, we believe the legislation could be improved with a more precise definition of "full cost pricing." This will help ensure a level playing field. Consumers and municipalities will know what they are paying for, and the same costing methodologies will be in place right across the province.

Fifth, the legislation should be amended to include metering. Metering is the most effective way to ensure that each user's consumption is tracked and billed and give them a reason to control their usage. This will allow consumers to see exactly the amount of water they use and its relation to cost. This will promote conservation, efficiency and, of course, environmental protection.

If this legislation and the proposed amendments come into force, the government will need to ensure both environmental and financial compliance by the municipalities. This is a monumental task for one ministry alone to oversee. To address this, we agree with the suggestion that the best way to ensure that the legislation is implemented as intended is to amend the legislation to dictate

which ministry is responsible for overseeing the environmental aspects of the bill and which is responsible for the financial aspects of the bill. The Ministry of the Environment should be responsible for environmental oversight, of course, while the Ministry of Finance—SuperBuild—should be given the financial oversight responsibility.

The Acting Chair: Thank you, Mr McNally. We have two minutes for each caucus.

Mr R. Gary Stewart (Peterborough): Thanks, Mr McNally, for coming and making a presentation. We have heard one presentation today about rainstorms creating major problems, such as backing up of sewers, and it has to go into the river. In the municipality I represent, we had the same problem this year. To you, as an engineer, and you've been around a long time—or your firm has; I'm sorry—

Mr McNally: Both.

Mr Stewart: —are you engineering and constructing now to address some of the major storms or concerns we are having and could have down the road or that they are predicting, so that we don't take the easy way out and don't upgrade it too much, other than what would meet the standards, and when the big rain comes we open the gates and in a couple of hours it will be down the river anyway.

1620

Mr McNally: I think what has happened is there has been change in society. As time goes by, people want to have a cleaner environment and a better environment. What you've seen in the older parts of cities, like downtown Toronto, where combined sewers were the economical and proper and accepted method of dealing with sewage on the old streets, is that some time back in the 1960s they decided that wasn't adequate, and from 1965 or thereabouts to the late 1980s, the city of Toronto spent a whole lot of money separating about 80% of their sewers.

They have found since then that two things have happened: the other 20% costs too much to separate, and with people's increased desire for environmental cleanliness, the water that comes off the streets, although it's storm water, isn't as clean as we would like to put it in the lake. That's why we are moving to CSO capture at the end of the pipes and treating the water that runs off into the system.

Mr Stewart: So they are putting—

Mr McNally: Yes, they are putting in adequate—

The Acting Chair: Mr Colle.

Mr Colle: Mr McNally, I wasn't too sure what you were implying about heroin and Chrétien and how it fits in to this, but I don't really want to go down that road.

I just want to say that I think I've had the pleasure of meeting your grandfather, if I'm not mistaken, who is recognized as a real pioneer in engineering and construction in Ontario. I realize the amount of building and construction he has done and led the way on, and I certainly want to put on the record the work he has accomplished and that he is a very impressive individual.

People who are building sewers, roads and bridges are the unknown heroes of our province.

I want to ask a question about a very interesting project you're involved in, the western beaches diversion project. I'd like to see a record of the success. I think this is the first year we've had to evaluate it. I would just like a rundown on how successful that was, because I know when it was implemented there was a bit of controversy about whether to spend the \$40 million or \$50 million to do it. I'd like to see the success of it. I don't think there's time here, but if you could—

Mr McNally: We don't have that. The city has to prepare it for submission to the Ministry of the Environment at the end of the second year.

The easiest way to get a snapshot of it is if you look at the number of days the beaches were closed in the west this year as opposed to last year—they were dramatically reduced. I don't think there was a closure before the middle to end of July, whereas in previous years they were being closed in June.

Mr Colle: Yes, Sunnyside and those would be closed. OK, I can look at that myself.

Mr McNally: It's been a major improvement.

Ms Churley: Thank you, Mr McNally, for your presentation. You will be pleased to know that when I was elected to city council in the late 1980s, I did suit up and go down into the sewers and had a good look, because they were in the process then, as you mentioned, of dealing with separating. That was a very interesting experience. I certainly recommend that all politicians do that and go take a look, because it's so abstract to many people.

Mr McNally: Not only is it abstract, but it's not visible and it's not apparent to people.

Ms Churley: Yes, and I've had a keen interest ever since.

There are a lot of issues around this, but we don't have time to get into them all. On full cost recovery, I'm frankly getting a bit alarmed so far about what I consider to be perhaps a well-meaning but simplistic approach that municipalities should be able to cover all this, when we know that their aging infrastructure means that multi-billions of dollars have to be spent in capital investments upgrading the system. I think people should pay the full cost when that water comes out of the pipe. I think there need to be government programs like we had when we created the Ontario Clean Water Agency, that conservation be part of being able to get a grant for upgrading a system. But I think it's unrealistic to think that municipalities are going to be able to afford to spend those multi-billions of dollars in capital costs. I just want your opinion about that. You have been in the field for a long time and know the extent, the enormous amount of work that needs to be done just to get our systems up to date again.

Mr McNally: The money that has to be spent to upgrade the service will have to be spent anyway. What we're looking at here is a way that it could be collected.

The citizens of Ontario are the only source of revenue anyway, and they are the water users in Ontario.

Most municipalities will be able to do it within their own budget. There may be some instances where there is a particular problem that needs to be dealt with with assistance from Queen's Park.

Ms Churley: But what it will mean, if you're looking at the two different levels of taxation, where the city has the property tax and then you get your water bill, it doesn't matter what your income is.

Mr McNally: I don't think a water bill is taxation, Marilyn.

Ms Churley: No, I'm just saying—

Mr McNally: It's a user pay for the person who uses it, especially when you have a meter.

Ms Churley: But people do have to pay their bills, and low-income people—this is an issue that we're going to have to address. It's very real.

The Acting Chair: Thank you, Mr McNally.

D'ORAZIO INFRASTRUCTURE GROUP

The Acting Chair: Our next presenter is D'Orazio Infrastructure Group. Please state your name, and you have 15 minutes.

Mr Jim D'Orazio: My name is Jim D'Orazio. I am the chief operating officer for the D'Orazio Infrastructure Group. We are constructors of municipal water and waste water infrastructure in southern Ontario.

We are supportive of Bill 175 because maintaining a plentiful, healthy water supply requires continuous investment by the government and consumers.

I know you've heard a couple of presentations from my colleagues. Our company is a member of the Ontario Sewer and Watermain Construction Association and the Greater Toronto Sewer and Watermain Construction Association, of which I was a past president. In those associations we conducted a poll, and in 1996, Environics, a respected polling agency or firm, told us that 82% of Ontarians would be willing to pay more for their water and waste water services to improve water quality. That 1996 poll was further supported in 1999 and 2001, with percentages of willingness to pay similar to that, in the 80% to 85% range.

Therefore, segueing into the rest of my presentation today, I'd like to say that this legislation represents an important step toward ensuring that Ontario's water and sewage systems are financially sustainable, and that this is good for public health and it is environmentally friendly.

Currently we are faced with a critical need to invest in our water and sewage infrastructure. Being in the industry and working with municipal infrastructure every day, I just want to share with you a couple of examples. Several years ago in a borough of Toronto—about six or eight years ago now—we were doing a water main replacement and we pulled out an old eight-inch water main that probably had, well, certainly less than four

inches of flow left in it from the amount of tuberculation and calcification that had formed in the pipe.

There was a similar type of event in the city of Mississauga, in a small residential community. I think in citing this next example, we all have to be cognizant of not just the cost of delivering water and waste water services to Ontarians but also the social costs involved with not taking responsibility or properly costing the value of these valuable services. The example therefore is this: in this small community in Mississauga there was a fire in a home. They went to crack a fire hydrant, to turn a fire hydrant on to get fire flow to put out the fire, and guess what? There was no water. The house burned down. Thankfully, nobody was hurt, but there was several hundreds of thousands of dollars in damage.

I put it to all of you, as we put it to the region of Peel, which was the governing or regulating body for the infrastructure, that that in fact was a project cost. For a project that was worth between \$600,000 and \$700,000, you're looking at another \$400,000 increase in cost—the way that I account for it, certainly.

Moving on to the rest of the presentation, we'd like to say that we've been a proponent of full cost pricing for many years. You've heard again from our association, and we are supportive of those views as an individual company. We believe it's the only way to secure much-needed new, upgraded infrastructure and to protect public health and the environment. With this in mind, we want to commend the government for moving forward and implementing this policy.

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We are particularly pleased that Bill 175 includes a section that requires municipalities to have dedicated reserve accounts. While we believe the bill is a good framework, it is our view that it must be strengthened if we are to achieve the goal of creating sustainable water and sewage systems. As the bill now stands, there is far too much left to regulation and not enough provisions entrenched in the legislation itself.

Let me run through some of what I think would be suitable amendments.

First, full cost pricing should be legislated as mandatory for all municipalities. Putting this principle in the legislation will signal the government's serious intent and, most important, it will ensure that full cost pricing becomes a reality in Ontario. While we agree with the concept that the municipalities should be allowed flexibility in how they achieve this goal, we do not think there should be any flexibility about whether they implement full cost pricing.

Second, the legislation should be amended to include a specific date for compliance. We recommend that the government phase in the policy change over a five- to eight-year period. This will help municipalities manage the transition to full cost pricing and protect consumers from undue rate hikes.

Third, we think the legislation should entrench the user-pay principle and prevent municipalities from being able to hide costs for water service within a property tax.

Only through a transparent user-pay method will this conservation occur. To quote Justice O'Connor, "Requiring people to pay the full cost of the water they use gives them a better appreciation of the value of water and encourages them to use it wisely."

Fourth, we believe the legislation could be improved with a more precise definition of full cost pricing. This will help ensure a level playing field.

Fifth, the legislation should be amended to include metering. Metering is the most effective way to ensure that each user's consumption is tracked and billed. Allowing consumers to see exactly what amount of water they use and its relation to cost will promote conservation, efficiency and environmental responsibility.

If this legislation and the proposed amendments come into force, the government will need to ensure both environmental and financial compliance by the municipalities. This may be a monumental task for one ministry alone to oversee. As you heard in the previous submission, we contend or we recommend that dealing with the overseeing of this legislation should be split up between two different ministries. The Ministry of the Environment should be responsible for the environmental oversight and, again, the Ministry of Finance, through SuperBuild, should be given the financial oversight responsibility.

That concludes my presentation. Thank you.

The Acting Chair: We have two minutes for each caucus.

Mr Levac: I'm getting a little—I won't say frustrated or uncomfortable. There's another word that's a little less forceful. I keep getting told that this is the right thing to do and I just have a concern that in terms of a vested interest, we know that the consistency of the water and sewage system is a good thing for business as well. I think I want to point that out, except to say that when we quote from Justice O'Connor, he also made it quite clear that municipalities should not be selling their utilities. We should also be taking steps to ensure that the government is a partner in financing these projects, particularly for those municipalities that have been left with an exceptionally large downloaded burden, as well as individuals in our society who may, by no fault of their own, not be able to wash their driveways because they don't have driveways to wash.

Are you concerned as an organization, along with the others we've heard, that those three recommendations should be looked at and adopted by the government's policy in their bill?

Mr D'Orazio: I'm not exactly sure. What exactly would you like me to address?

Mr Levac: You can take your pick. Each of the ones I've given you need to get addressed, according to Justice O'Connor.

Mr D'Orazio: If I understand what you're trying to say, are you saying we have to be vigilant about how the service gets delivered?

Mr Levac: And to whom and who can afford it.

Mr D'Orazio: Certainly my view, and I think it is shared by the association, is that at the end of the day, we're not promoting that. Personally, we don't promote, as a company, that infrastructure should be owned other than in municipal hands. It shouldn't be owned privately.

Having said that, however, I think we all have a responsibility to make sure that the infrastructure is delivered in the most cost-effective and responsible way fiscally to the people of Ontario, and if that means a public-private partnership, then so be it. I think we all have to do what's in the best interests of each municipality, whether they be a large municipality or a small municipality, and those may have different mixes in terms of product delivery.

Ms Churley: So far, all the deputations have been pretty similar in your approach, so I keep asking the same question about full cost recovery.

On page 313 of Walkerton report 2, Justice O'Connor mentions that "...the financing of water systems does not occur in isolation of other pressures on municipal budgets. In light of recent restructuring in the municipal sector, especially the transfer of additional open-ended social service costs (e.g., welfare) to municipalities in 1998, there is currently some uncertainty about the ability of municipalities to finance all of the programs they are responsible for, including water services."

He goes on to talk about that being a problem and that the government should review that. He brings up the low-income and smaller municipalities as well.

Again, I would say that we have to get real about this. If the provincial government walks completely away from helping finance capital—I don't mean the end use, but maybe giving a one-time grant or whatever to help in partnership—to help municipalities get their aging systems up to standard, then we can talk, but the idea that most municipalities are going to be able to cover all of those costs without help, especially after the down-loading from the provincial government, just isn't realistic. It's just not going to happen. I just wanted your comment on that.

Mr D'Orazio: I listened to your previous question and, you're right, it's the same question basically. My response is, you have small municipalities and large municipalities. Our company resides in the region of Halton. Halton is an excellent example of a municipality that lives by full cost pricing. Two years ago we did a large project for Halton—the largest design project of its kind in this province and, we think, in the country—a \$30-million water and waste water expansion to service the town of Milton, which in 1999 had 13 building permits and in the year 2000, one year later, had 1,300. To bring water up to Milton, Halton adopted a financial model that said, "Look, to get that infrastructure up there, to finance that, Mr Developer—you're the one who's developing the land—we'd like you to pay for that up front. When the time comes that the people actually need to access that sewer and that water main, then we will give you a credit on your development charges for building that house." That financial model was recog-

nized by the Canadian Council for Public-Private Partnerships and won an award.

The message I'd like to send is that you have large municipalities and small municipalities, and both have to be treated differently. Does that mean the province can necessarily walk away from a small municipality? No. I don't think that's necessarily responsible. Some of the bigger ones, yes, have the capability to deal with it on their own. What we're proposing is that a program that stays in over a five- or eight-year period, at literally \$6, or a 30% increase, which is no more than \$6 per household, would go a long way to readjusting or making good the old infrastructure that's in the ground and also dealing with future expansion.

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Mr Frank Mazzilli (London-Fanshawe): Thank you very much for coming today and making the presentation. I don't think anyone can disagree with this bill, and I know your association has been doing a good job in pushing it forward.

Mr Levac: Arrogance.

Mr Mazzilli: No. I listen to a lot of complaints, but the devil is in the details. What we're really talking about here is not what's in this bill. The private sector has a component later on on financing the infrastructure. It's more of a financing issue of the distribution of the network, the pipes, if you will. That's what you're talking about. We've said clearly that that's not addressed here.

I'd like to see some proposals from your association, and how that's rolled out across the province per household. You're talking about the distribution system. When you look at the role of the private sector, the only opportunity for them is to get involved in the financing of this infrastructure; and that municipal councils not be allowed to charge less or more for that, but just enough to recover the costs.

I thank you very much, and I know as an association you will be making some presentations further to Super-Build on how we can do this properly.

The Acting Chair: Thank you, Mr D'Orazio.

CONSULTING ENGINEERS OF ONTARIO

The Acting Chair: Our next presenter is Consulting Engineers of Ontario. State your names, please. You have 15 minutes.

Mr John Gamble: Good afternoon. We're pleased to see that the Chair this afternoon is a professional engineer. My name is John Gamble. I'm the president of Consulting Engineers of Ontario. I'm accompanied today by Erin Mahoney. She chairs our environmental issues committee, which also liaises with the Ministry of the Environment.

Consulting Engineers of Ontario is a non-profit association dedicated to the business and professional aspects of consulting engineering in Ontario. Our membership includes over 260 firms, collectively employing over 13,000 employees. Our member firms range from sole

practitioners to some of the largest engineering companies in Canada. We have worked with all levels of government, including many provincial ministries and agencies, to promote sustainable infrastructure investment.

I'll just assure members of the opposition that we are not members of the Ontario Sewer and Watermain Construction Association, though they are fine people.

Consulting engineers provide environmental studies, design and capital infrastructure planning services. This includes preparation of capital and operating cost estimates to municipalities across Ontario. Our industry is proud to have offered these services to municipalities and to the province for over a century. We have participated in the establishment of the vast majority of the water and waste water infrastructure in place today in Ontario. We are, therefore, pleased to have this opportunity to be before you today.

We believe that this act, in conjunction with the Safe Drinking Water Act, has the potential to be one of the most significant actions to ensure sound water and sewage systems since the formation of the Ontario Water Resources Commission back in the 1950s. We also recognize that this act, however, will have very significant consequences for water and sewage service providers throughout the province in planning and paying for water and waste water services.

However, the reality we face today is a significant infrastructure deficit. Like the fiscal deficits that governments of all political stripes have wrestled with, the infrastructure deficit also threatens the social and economic well-being of the province. This is particularly true of water and sewage systems that have a direct impact on our health. And like fiscal deficits, the longer we take to address it the more difficult it will be to overcome. If our generation doesn't take on the responsibility for ensuring the long-term sustainability of these assets, we will be threatening our health and our economy for generations. As such, we are faced with a critical need to invest in our water and sewage infrastructure.

The investment requirements are growing because of our aging water and waste water systems, as well as the need to renew the assets. This requires a long-term planning cycle and a commitment to building reserve funds to pay for replacements in the future. You've heard a lot about reserve funds and full cost recovery, and we too, for many of the similar reasons you've heard, support that. One key thing in this—and it probably hasn't been raised directly—is that in the long term, we believe implementation could encourage infrastructure to be addressed on a longer-term planning basis than the current three years between municipal elections.

As consulting engineers, we plan and design infrastructure for design lives that often exceed 20, 30 or even 50 years, and many remain in service for over 100. Yet significant infrastructure decisions are often made based on short-term financial and political pressures, without sufficient consideration of life cycle costs or the current condition or design life of the infrastructure assets.

We do, however, appreciate the very real challenges that many municipalities will face over the implementation. Subsequently, we believe that the transitional financing measures need to be addressed immediately to assist some municipalities. As we heard earlier, part two of the report recommended, "As a general principle, municipalities should plan to raise adequate resources for their water systems from local revenue sources, barring exceptional circumstances." However, he also went on to say that low-interest loans rather than grants may be an option, and further suggested that such subsidies only be made available "in accordance with defined affordability criteria, to the extent necessary to bring the cost of water services within an affordable range."

We agree that this is a fairly sensible approach to how to deal with the transition period. We certainly think that the full cost pricing should be the ultimate objective, but we do realize it's a tough road to haul until we get there, and we need to recognize that going in.

While we fully support the principles of the bill, we also understand that there are a lot of details to be coming through the regulations. Not having seen them to date, we really can't comment on them, but we do offer that, given the significance that this legislation will have as being the basis of our future investment in infrastructure, we do feel it would be prudent to address some of the key provisions, the key concepts, the key definitions, in the legislation, like the definition of full cost recovery.

In the spirit of hoping we can improve this legislation, Erin Mahoney will now speak to some specific issues that we feel warrant special consideration.

Ms Erin Mahoney: Good afternoon. CEO believes the government must be clear on determining specifically where Bill 175 will reside. The proposed Safe Drinking Water Act includes a financial plan as a condition of obtaining a licence. One question that arises is, does MMAH have to approve the financial plan before MOE can issue the licence?

We believe one ministry must be responsible for implementation of the bill. Part two of the Walkerton Inquiry Report recommended that MOE be the lead agency, but so far it's not clear how that is being handled. Although Bill 175 has been reintroduced as an MOE bill, MMAH still is involved. We believe the intent is that MMAH set the rules and MOE enforce them, and this should be clarified in finalizing the bill.

Municipalities that have not done so already will have to identify those specific costs applicable to their system operations and confirm funding sources required to maintain and expand these systems. Those municipalities that do not have these costs identified or components of their systems inventoried will have to put such inventories in place and undertake a condition assessment to confirm needs, along with identifying all the related costs. This work includes development of a comprehensive asset management plan, which includes plans for moving to full cost recovery.

However, the time frame to move to full cost pricing is not stipulated. CEO wishes to emphasize to the prov-

ince that undertaking this work is not simply a bookkeeping exercise. It will require sound engineering and scientific judgment to characterize the condition of these assets and determine the costs required for their maintenance and upgrades.

This raises the issue of implementation schedules. These schedules are not known, but will have a huge influence on the capability of municipalities to meet all these evolving needs. The Walkerton Inquiry recommended deadlines for some activities, and the government has indicated it will meet these deadlines. The consequence could be that the deadline becomes the priority. This is a major problem with many aspects of the US Safe Drinking Water Act, where the intent was to base decisions on sound science, but deadlines took over as the priority.

Municipalities will need to determine what inventory information they need to collect, what maintenance/operations information they need to collect, what condition/performance assessment tools they should use, and how this rolls out into replacement and rehab strategies and, in turn, related costs. This, plus the fact that they will need to identify all related cost aspects, will mean that most municipalities will have to undertake a significant amount of work to establish the basis for the charge and ongoing maintenance, monitoring and implementation requirements.

Given the variation in size of municipalities and the differences in the water and sewage systems across the province, we believe there is no one-size-fits-all approach that should be applied across the board. Some recognition of different methodologies in undertaking the work and determining the costs should be allowed. However, successful implementation for all entities must require full life cycle costing, long-term financial strategies, and a bias for continuous improvement. Given the disparity of resources across municipalities, we believe that sufficient time must be given to allow them to complete this work, understand the impacts, and implement rate increases in a considered fashion.

Other considerations in the total picture include skills training at all levels. There are huge education and training needs to implement this bill and the Safe Drinking Water Act. This needs to be a co-operative government and industry solution and represents a cost that needs to be in the mix.

CEO is of the opinion that individual system viability needs to be addressed by the act, as the owners of these smaller remote water and sewage systems cannot easily address many of these requirements. This issue could possibly be remedied through the notion of "virtual utilities." Water and sewage operations must have effective economies of scale. Some small, insular works pose unacceptable consumer and operator risks. We suggest that one option for such small systems is to group them under regional operation and ownership authorities.

CEO noticed there is one unintegrated facet of this new legislation, which is the omission of source protection from cost recovery. The lack of ability to address full

source-to-tap protection and recover associated costs ignores the cost of impaired water in some systems, as evidenced by Walkerton. CEO recommends that such criteria be developed and included in Bill 175.

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We notice that provisions of the bill allow the minister to undertake the study on behalf of a regulated entity; however, no criteria are stipulated for this circumstance. We recommend that such criteria be developed and included in Bill 175.

The cost recovery plan describes how the entity intends to pay the full cost of providing these services. However, this is not tied to the municipal financial information returns. We suggest the province link this information into FIR data.

The bill further stipulates there are circumstances that could trigger a revised financial report to the minister. We recommend these circumstances, as currently defined, are too broad and should be more narrowly defined.

The bill currently calls for a sign-off of the financial plan by the minister. We suggest that to improve efficiency and streamline implementation, the minister's approval should be delegated to a director level. Also, the rate review process roles and responsibilities, including appeal provisions, should be developed and included in the bill or in subsequent regulation.

CEO suggests the province ensure that the actual legal and regulatory obligations confronted by our drinking water and sewage system providers can be met from a technical, managerial and financial perspective.

Mr Gamble: In conclusion, I'd just like to offer my personal thoughts that the water in this province is a resource to be shared by the people of Ontario. However, its management, treatment and distribution does require a significant and sustainable investment. If properly executed, this legislation has a lot of up side. As much as we are confident that ministry staff will continue to work with the stakeholders to address some of these issues, I think the gravity of this legislation asks that you at least consider addressing some of these fundamental concepts in the legislation.

Thank you very much.

The Acting Chair: We have one minute each, so one question for each caucus.

Ms Churley: Is that the same John Gamble that—

Mr Gamble: Yes, it is.

Ms Churley: We met on the campaign trail.

Mr Gamble: We did.

Ms Churley: A Tory opponent. We had a lot of fun in that campaign. It's nice to see you again.

Thank you for your very thoughtful presentation. I'm glad that you spoke to the Safe Drinking Water Act as well. As you know, that's a considerable interest of mine.

I fully agree with you that source protection needs to be included as part of the full cost recovery. That's an oversight that we need to deal with. I also fully agree with you—and I'm glad you agree with me—that some

of the upfront capital costs need to be dealt with at the provincial level of government as well.

Mr Gamble: They have to play some sort of role. We certainly don't encourage the artificial economy of subsidies, but a practical consideration is that all municipalities are not starting from the same place. We definitely need to get to the full cost pricing, but we have to show a little bit of flexibility in how we get there.

I'm getting a little concerned when we agree, though.

Ms Churley: I know. Me too.

The Acting Chair: To the PC caucus.

Mr Dunlop: We've seen the Canada-Ontario infrastructure program on and off over the last seven or eight years. I'm wondering, do you feel that program is something that we should see a lot more federal involvement in as we go down the road with the types of investments that are needed here?

Mr Gamble: Let me answer that on two levels. On a philosophical level, again, I'm very reluctant to create a lot of artificial economy through subsidies. That's partly how we got into this situation. There was really a lack of understanding of who should be responsible for that.

In terms of some of the transitional programs, if the federal government is prepared to assist in moving toward this vision, then obviously if they can do something to help leverage some money, whether it's through revolving credit funds, whether it's through low-interest loans or what have you, I would certainly, like Justice O'Connor, favour a loan situation as opposed to an outright grant. It would depend on the very nature of the program. Unfortunately, some of the federal programs are still the very traditional, "Let's cut a cheque so you can cut a ribbon," and I don't think that helps the situation.

The Acting Chair: Thank you. Your time is up. Mr Bradley?

Mr James J. Bradley (St Catharines): I was interested in your comment about the ability of municipalities to meet the obligations that are suggested in the legislation in the time frame that most people contemplate. We will hear from municipalities, and informally we hear from municipalities, that that's a genuine challenge. How would you suggest that those timetables be met? What role can the provincial government play in helping to meet those timetables to meet the provisions of the legislation? As I say, municipalities on their own appear to think that's a major challenge.

Mr Gamble: Yes, and the bill to an extent addresses this. There really has to be a sequence here. One is we have to understand what the state of the infrastructure is at the moment. All the traditional grant programs and all the traditional delivery models we've had, going back decades, have really been about a very sudden and immediate recognition that you have a need. What we've lacked is really good information about the size and the magnitude of the problem. I think that clearly has to happen.

Again, I want to be clear, we certainly support moving toward the full self-sufficiency of the municipalities. In

the short term, I think there are possibilities of revolving credit funds, which might be one case. I think the ability to issue municipal bonds is a step in the right direction.

Though I would have some problems if it became the long-term solution, there may be some argument in terms of having a regional rate structure. The important thing, though, is that we actually truly recover the costs and we have a very true idea of what the costs are, both the operating and maintenance, the development costs as well as the replacement costs. It's not just the construction costs and it's not just the studies; there are a whole lot of elements that go in here. It's the engineering costs, it's the planning costs, it's all the professionals and other expertise that goes into it.

The Acting Chair: Mr Gamble, I'm sorry, your time is up. Thank you very much.

ONTARIO MEDICAL ASSOCIATION

The Acting Chair: Our next presenter is from the Ontario Medical Association. Welcome, gentlemen. Please state your names. You have 15 minutes.

Dr Elliot Halparin: Thank you, Mr Chair. I'm Dr Elliot Halparin, the president of the Ontario Medical Association. On my left is Mr John Wellner, who is the director of our environmental program at the Ontario Medical Association, and on my right is Dr Ted Boadway, who is the executive director of our health policy department.

Mr Chairman, honourable members, ladies and gentlemen, it's a pleasure to speak before your committee on behalf of Ontario's 25,000 physicians and their patients. We are addressing Bill 195.

We agree with Walkerton Inquiry Commissioner O'Connor's recommendations that there needs to be a series of separate legislative initiatives undertaken to ensure the safety of our drinking water, but our focus here today is on the act and some of its related issues.

We were in fact involved significantly in the inquiry, particularly with respect to phase two, where we gave detailed recommendations to the commissioner and his staff.

We had three main concerns at the time. They have not changed. They are: the role and engagement of the local medical officers of health; processes designed to ensure that water testing is subject to the appropriate safeguards and laboratory standards; and that a health-based perspective is relied upon when the issue of water source protection is being addressed, and that there is a sound medical foundation to protective measures.

I want to address those three, but before I go into those details, on behalf of the association, I'd like to say that in our areas of expertise, we consider this to be good legislation, and we want to offer our congratulations on the Safe Drinking Water Act and to commend the hard work done by the minister and his staff to give legislative life to Commissioner O'Connor's recommendations. We don't think the job is done, but it's fair to say that we

believe Ontario is moving in the right direction with this act.

On our three areas of key importance:

(1) Local medical officers of health: We'd like to note for the committee that recommendation 1 in part one of the report spoke directly to OMA concerns when Commissioner O'Connor called on the boards of health and the Minister of Health and Long-Term Care "to expeditiously fill any vacant medical officer of health position with a full-time medical officer of health."

If nothing else, the Walkerton tragedy showed us clearly that the local medical officer of health, as the community's doctor—or, as the doctors in the community like to say, "our doctor"—is both the population's best and final line of defence, should drinking water become contaminated: "best" because the medical officer of health is best placed to analyze all the various bits of information that arrive as a result of the testing process and best able to make decisions; and "final" because, if all of those pieces of information are wrong or they fail or the information does not arrive, the medical officer of health is trained to make a clinical decision, like the one made in Walkerton, that makes the difference between life and death for many. We believe Bill 195 addresses the issue and finds a way to do it successfully.

Section 167 of the bill calls for an amendment to the Health Protection and Promotion Act to ensure that the Minister of Health and Long-Term Care shall—I emphasize "shall"—work with the local boards of health to fill vacant medical officer of health positions. This is a clear and legislated commitment on the part of the province, and it is a very good method, in our view.

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(2) On laboratory practices, the OMA made extensive recommendations on the issue of properly accrediting laboratories that test drinking water, as well as addressing quality assurance through pre-testing and post-testing protocols. We are satisfied that the ministry staff took our concerns seriously and listened to our recommendations. We can see clear evidence that improvements will be forthcoming when the bill is passed.

Accreditation, from our point of view, refers to: Do you have the right equipment? Can you do the tests? But quality assurance is about: Can you collect it properly? Can you transport the sample properly? Can you analyze it properly? Can you report it properly? Both components are fundamentally essential and part of the OMA's recommendations.

(3) On source protection, although it's not formally part of the Safe Drinking Water Act, it's so important that we want to add our concerns about source protection here for you today.

As Commissioner O'Connor proposed the Safe Drinking Water Act to ensure that matters related to the treatment and distribution of drinking water were fully protective of the public health, he recommended amendments to the provincial Environmental Protection Act to protect drinking water sources.

We have been very clear in our expression of concern about the lack of action thus far to protect drinking water from contamination in the first place. An advisory committee has recently been convened to address issues relating to the protection of drinking water sources. We're told they had their first meeting yesterday and we're very pleased that Dr Albert Schumacher, one of our past presidents and the president who was making the presentations to Justice O'Connor, has been invited to participate on the committee. The OMA believes that health protection must be the starting point of dialogue on source protection.

It was Commissioner O'Connor's intention that source protection be dealt with at the same time as these other initiatives. We hope for quick action on initial water source protection initiatives and we'll be pleased to offer any and all of our medical expertise if this will help to ensure a health-based approach is taken. It's very important that binding targets, specific delivery dates, be set to ensure protective actions are undertaken soon and that checks and balances are put in place to ensure that the chosen methods have the desired protective effect.

A couple of quotes from Commissioner O'Connor when he was talking about water source protection: "The first barrier to the contamination of drinking water is source protection." In part two Justice O'Connor wrote, "A strong source protection program offers a wide variety of benefits. It lowers risk cost-effectively: keeping contaminants out of drinking water sources is an efficient way of keeping them out of drinking water. This is particularly so because standard treatments cannot effectively remove certain contaminants. And protecting drinking water sources can in some instances be less expensive than treating contaminated water so that it meets required safety standards."

It's no doubt in the interests of municipalities, who will shoulder a significant portion of the responsibility, to move toward drinking water protection in the most cost-effective way. We need a clear legislative road map that outlines what the province intends to include in its actions to protect water sources, as well as timelines with firm dates for delivery.

In conclusion, the OMA's view is that our water and our patients will be safer with Bill 195. We commend the government for the extensive effort put into this bill and are pleased that our primary concerns with the contents of the Safe Drinking Water Act have been satisfactorily addressed. Ontario has made significant strides toward preventing the possibility of another Walkerton Inquiry. Bill 195 will certainly reduce the risks, especially with respect to the recommendations on medical officers of health and laboratories.

Good work has been done here, and we look forward to similar legislative vigour being applied to the issue of drinking water source protection.

We thank you for the opportunity to present our thoughts here today, and we are happy to answer any questions you may have.

The Chair: Thank you very much for your presentation. That gives us time for about one round of questions at two minutes. I'll give the time to the government caucus, if anybody has a question.

Mr Mazzilli: Thank you very much, Doctor. When it comes to full-time medical officers of health, obviously the large municipalities likely don't have the same problem as rural Ontario. Can that be done in regions? I know in some of the less populated areas it's quite difficult to have a medical officer of health looking after all of his or her responsibilities without the infrastructure around that person to do so.

Dr Halparin: Dr Boadway is our resident expert. He keeps in touch with our medical officers of health.

Dr Ted Boadway: The fact is, you do need a full-time medical officer of health who understands the environment of which they have charge. If you don't have that, if you have someone coming in and out, don't be surprised if they miss what's going on in that natural environment because they're just not familiar with it. In fact, what you need to do is bring areas together large enough to support that project. Some of them may require provincial help, but we already know that most can do it. The several that don't have them now could well afford it. So that's not the problem.

The Chair: Thank you for taking the time to come before us here this afternoon. We appreciate it.

PEMBINA INSTITUTE

The Chair: Our next presentation will be from the Pembina Institute. Good afternoon. Welcome to the committee. Just a reminder: we have 15 minutes for your presentation to be divided as you see fit—either presentation or question and answer.

Mr Mark Winfield: Thank you, Mr Chairman. I'll try and leave a few moments for questions at the end.

My name is Mark Winfield and I am director of the environmental governance program with the Pembina Institute for Appropriate Development. The institute is an independent, not-for-profit environmental policy research and education organization founded in 1984 in a place called Drayton Valley, Alberta. It now has a staff of 30 with offices in Drayton Valley, Calgary, Ottawa and now here in Toronto.

As I mentioned, I'm director of the institute's environmental governance program and I also teach environmental policy and politics at the University of Toronto and York University.

I'm going to comment very briefly on Bill 175 and then focus most of my time on Bill 195. My comment on Bill 175 is really general with respect to the approach underlying the bill. The institute is supportive in principle of the concept of pricing water to reflect its full cost and values. However, we do disagree with the approach taken by the government of Ontario in dealing with the capital investments to water systems needed to meet the post-Walkerton requirements by effectively offloading these costs on to system operators. A better approach, in our

view, would have been for the province to have provided, on a one-time basis, capital assistance to bring everybody up to standard, to be able to meet the requirements of both the drinking water protection regulations and the Safe Drinking Water Act and then require systems to operate on a self-financing basis in the long term, going forward from there.

In our view, the province does have the infrastructure funds necessary to do this through the SuperBuild program. It really would have been a question and still could be a question of reallocating those funds more appropriately.

With respect to the Safe Drinking Water Act, we are supportive of the general direction of the bill and note that it addresses a number of major aspects of Justice O'Connor's report. I'm going to focus my remarks on three specific aspects of the bill: the lack of provisions dealing with source water protection, the role and mandate of the advisory committee established by the bill, and the role of accreditation agencies in the accreditation of operating agencies and laboratories.

A great deal has already been said about the absence of any references or provisions related to source water protection in the bill, and I don't need to reiterate those at length here. Source water protection was a central element of Justice O'Connor's recommendations and does need to be addressed. Without source water protection, the job of implementation of Justice O'Connor's report is less than half done.

With respect to the advisory council established by section 4, in our view, the mandate of the council is too narrow. The council should be mandated to give advice on emerging issues and threats to drinking and source waters and to report more generally independently on the state of the province's water on a regular basis.

The third aspect of the bill that I'd like to address is the issue of the role of accreditation bodies. We welcome the requirements for accreditation for operating authorities and laboratories and realize that these are central to the regulatory framework of the bill. However, as currently drafted, the accreditation function, which is essentially a substantive review of the capacity and qualifications of operating agencies and laboratories, will not be carried out by the Ministry of the Environment but by accreditation bodies. Under the provisions of the bill, and this is in sections 22 to 24 and 60 to 62, these entities may be any person, and that means any individual or any corporation designated by the minister. These bodies have yet to be identified and the bill contains no provisions regarding their structure or qualifications. In our view, the government needs to identify who it's contemplating these bodies being. The bill needs to establish requirements for these bodies, including their required qualifications and expertise, their institutional nature and status, and their freedom from conflict of interest.

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More generally, the bill needs to provide for annual public reports by accreditation bodies on their accreditation activities, public access to information related to

their accreditation functions, a provision for independent audits of their operations, and the application of the Environmental Bill of Rights to any agreement entered into by the minister with an accreditation body.

As I say, we support the overall direction of the bill. We see it as an important step toward implementation of the Walkerton Inquiry's recommendations. We would appreciate seeing these aspects of it addressed and look forward to seeing the government's next steps on the issue of source water protection.

I'm happy to take questions.

The Chair: That leaves us just under three minutes per caucus. We'll start this round with the official opposition.

Mr Bradley: I find interesting your comments on the advisory council. Is it your view that the advisory council would be a stronger and more relevant body if it reported to the Ontario Legislature rather than to the minister himself or herself?

Mr Winfield: I think that might help. That's a possibility that one could draft a bill in a way that the council's recommendations are made to the Legislature as well as the minister simultaneously. I do think it would also be helpful, though, to broaden the mandate of the advisory council contemplating the act so that it's got a much broader mandate to speak to drinking water and source water conditions in the province.

Mr Bradley: I've noted that and I consider it to be a good recommendation. In terms of the accreditation bodies, I share your concerns that you've expressed that there is not much in the way of a definitive description of how that system will work.

Let me move away a bit from that. Do you think there would be any value in re-establishing the Ministry of the Environment regional laboratories, which were closed overnight in 1996 and left municipalities scrambling for the use of private laboratories? Do you think there's a value in government re-establishing its laboratories, which were so highly regarded in years gone by?

Mr Winfield: I do think there would be some value in going down that road. It is a particular concern, given the lack of clarity in the bill around how qualifications for private laboratories are going to be established. Certainly, returning these functions to the ministry's own laboratories would deal with a number of the problems we identify with this notion of having private operators carry out these functions in terms of freedom from conflict of interest, independence, access to information, access of the Provincial Auditor to their operations and those kinds of things. You would be dealing with a much stronger accountability and oversight framework than is the case with private laboratories.

Mr Bradley: The Nutrient Management Act regulations, if my recollection is correct, are still not finalized, and while the legislation has passed, it has taken some time to do so. I have two quick questions on that: first, do you believe the Ministry of the Environment should have the lead as opposed to the Ministry of Agriculture and Food in that regard? Second, do you believe that it's

almost, I guess, a given that it's essential to get those regulations in place as soon as possible to assist in the protection of the raw water supplies in the province?

Mr Winfield: Yes. I think, in fact, Justice O'Connor was quite clear on this as well: that the Ministry of the Environment needs to be the lead regulator in dealing with agricultural sources of pollution. The problem is that, in addition to its role as something of an advocate for the agricultural sector, the Ministry of Agriculture, Food and Rural Affairs really has very little operational experience as an environmental regulator and as a regulator of water quality. I think that's the other consideration that needs to be taken into consideration here.

Yes, forward movement on the regulations under the Nutrient Management Act would be very important, but I think it's also important to keep in mind that that only deals with certain aspects of Justice O'Connor's recommendations. It's also very important that the government move forward on the issue of the watershed protection planning regime that Justice O'Connor contemplated as well.

Mr Bradley: Do I have any more time?

The Chair: No, that's all.

Ms Churley: Thank you very much for your presentation. I must say I'm glad we're talking about the Safe Drinking Water Act now. You actually support some of the contentions I'd been making earlier, particularly around full cost recovery and the need to understand what we mean by that, and make sure we have a model that has, as my safe drinking water bill did, the component written into it that we re-establish a fair partnership between the province and the municipality. So my first question would be, do you think that should be specified in this bill, as it was in my bill?

Two other things in my bill which are removed that I think are really important that you didn't touch on, besides the money—I know you have limited time—is the clean water electronic registry—you may be aware of that—so that Ontarians can obtain up-to-date information about the quality of water in their community. Also, the mandatory reporting notification requirements to water users, local medical officers of health and the Ministry of the Environment, those kinds of rights, the public right-to-know aspects, have been left out. So I wonder if you could comment on those quickly.

Mr Winfield: As I indicated, I think some intervention by the province on the financial side is required. We're hearing, particularly from smaller municipalities and rural municipalities, that simply the financial burden of implementing both the drinking water protection regulation, the small source drinking water protection regulation, and now this bill may well be beyond the financial resources of some of the smaller municipalities. Indeed, we have to remember that historically part of the reason the province became involved in funding of municipal water systems in the 1950s was precisely because of these problems around capital capacity at the local level.

In that context, I'd reiterate my notion that it may well have been a better approach for the province, in addition

to putting all these regulatory requirements and things like the standard of care and things like that that are being loaded on to local governments in the bill, to have accompanied that with some capital assistance in the short term, essentially to bring everybody up to standard and then move forward from there.

In terms of the notion of the clean water registry, certainly we would support a community right-to-know approach. This has now been very well established in the United States through consumer information reports under the Safe Drinking Water Act. We do note that the province has moved on the issue of some degree of mandatory reporting. There is a Web site now but you do have to dig hard to find it; it's not very prominently displayed. There has been some progress there on the part of the province and we need to acknowledge that, but I do think a broader approach to community right-to-know and consumer information might be very, very helpful.

Mr Bill Murdoch (Bruce-Grey-Owen Sound): I appreciate your comments. You may be a bit premature on the costs to the municipalities. Right now there is a committee with AMO. They're sitting down right now and working out the regulations for this bill. After that committee finishes that, they will start right into looking at the costs. So you're a little premature in saying they're not looking at that, because they definitely are. With AMO, we will come up with some ideas on how to help some of the smaller communities. You're absolutely right; they can't all live with some of the regulations and be able to afford them. So the government will have to come up with some money and, with the help of AMO, we're going to work that out. I just wanted you to know that.

On the second thing—you mentioned source water protection—you're right, we're only halfway there; you certainly are right. But we are right now, in conjunction with our conservation authorities, doing extensive studies out there on where the water is coming from, how many wells are out there. So we could be premature in jumping ahead with a bill on water source protection when actually there aren't a lot of records of what is actually out there. The government has spent a significant amount of money for conservation authorities and with some counties to do these studies and as soon as we get those done, then we can start looking at the second half of the bill.

Your comments are good and, as I say, we are right on doing all that you are requesting.

The Chair: Any other very quick question from the government side?

Mr Murdoch: Just one. I'll mention too that the water quality centre in Walkerton, which will hopefully be up and running by spring, at least started on the construction anyway, is where we will be able to have a lot of this detail that is lacking. There will be a centre in Ontario for details, which will be there and people will be able to get the different—sort of some of the concerns you have.

We'll have a place in Ontario that people will be able to come to.

The Chair: Thank you for coming before us here today. We appreciate your comments.

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NORTH ROCK GROUP

The Chair: Our next presentation will be from the North Rock Group. Good afternoon. Welcome to the committee. We have 15 minutes for your presentation or questions and answers.

Mr George DiPede: Good afternoon, Mr Chairman, committee members and ladies and gentlemen. My name is George DiPede. I am the president of North Rock Group Ltd. North Rock is primarily a water, sewer and road reconstruction company in the province of Ontario. We are a family-run business and our roots date back to 1959, when my late father started in the water and sewer business in Ontario. We presently employ 50 people and enjoy a continuity of over 50% of our staff being with the company for over 20 years.

Our work also entails general contracting in the construction of pumping stations, whether it be for water or waste water pumping stations. Our work has taken us from as far west as Hamilton, as far east as Cobourg, as far south as the lake, and as far north as the Muskokas in Huntsville and Bracebridge. Needless to say, our staff has worked in every type of soil condition in the province, with every type of piping system for water and waste water, and has quite a lot of experience in the water and waste water system in the province.

We are active members in the OSWCA and GTSWCA and are also members of the Canadian Construction Association. Our company has also enjoyed a long history of dealing with design-build projects with water and waste water systems in the province.

Therefore, we are here to speak on Bill 175, the Sustainable Water and Sewage Systems Act, and commend the government for bringing forth this legislation and recognize that this act is long overdue and is well required. This legislation is an important step in ensuring that Ontario's water and sewage systems are good for public health, environmentally friendly and financially sustainable. Really, this act is catching up to where we are today in 2002. This act and this type of legislation should have been in place perhaps 30 years ago—it should have been 1972 instead of 2002.

The systems that we have underground here have to be considered an asset; an asset, whether it be a building or a business. The piping system and water and sewer systems in Ontario are billions of dollars that are underground and have to be maintained. There have to be controls and measures in place for those people who are responsible for maintaining them. They must be kept up to date. It must be made sure that they are running efficiently and effectively. Ultimately, there is a financial responsibility with any asset.

For example, the condominium corporation act of Ontario requires that a 10% reserve account be placed in every budget for maintaining condominiums. Therefore, financial sustainability is extremely important when you are talking about millions of dollars of infrastructure that's under the ground.

I'd like to give you two examples that our own company has dealt with when it comes to the critical situation of water and sewer in the province. We were fortunate enough to do a project just north of Toronto a few years ago in what was then a small municipality. Today, it's a thriving municipality both residentially and commercially. We started the project. It was a water main project. We were there to connect to an existing water main. To the chagrin of the local municipality, the consulting engineer and ourselves, we spent the day digging, looking for a water main that didn't exist.

There was a fine older gentleman who was sitting there across the street and having a good time watching us trying to find a water main that didn't exist. The next day we asked the gentleman why he just watched, to his amusement. He informed us that we could dig until the cows come home but we would never find anything under the ground. When we asked him why, he said that we were on the wrong side of the road. Everything was on the other side. When we asked how he knew this, he said he was the retired superintendent of waterworks for that municipality. When we asked him how it was that he knew where everything was but the municipality and engineers didn't, he had two words for us—job security. He said that if he knew where everything was, his job was secure and he'd never have a problem.

Interjection.

Mr DiPede: Yes, that was good strategy. As amusing as it might be, the real issue is that here's a municipality that has hundreds of houses, large factories and commercial buildings being built, and yet they don't even know where their infrastructure is.

How can we sit here and talk about clean drinking water and proper transmission of waste water, when a simple thing like data and reporting is not even being kept properly? I'm not talking about far away from the GTA; this is a large municipality.

Another incident happened to the west of Toronto, a similar situation. We hooked up to an existing water main. After the project was complete, we tested the water main for potability and spent many weeks, and to no avail. We did not get the water potability to the standards of the province of Ontario. We tried everything known to both ourselves and the municipality and consultant, and we could not get this water to pass and meet the standards.

We took it upon ourselves, with the municipality, and tested the source, the town's water where it was coming from. Ironically, this town celebrates that it has probably the best water in Ontario and sells bottled water. Lo and behold, the water itself did not meet the province's standards on potability. Therefore, the residents were living with potable water that did not meet province of

Ontario standards. Had we not done this project, no one would ever have known. I'm not saying a mini-Walkerton could have happened, but no one can tell me it could not happen for sure. Had we not done this project, no one would ever have known this water did not meet potable standards.

Those are just two minor examples of situations that have happened. I'm sure other colleagues of mine have mentioned different ones in the past. But I just want to illustrate the point that we are in a situation where we have a serious asset, we have billions of dollars in the ground, and we don't have certain controls and measurements required to get the job done.

We support Bill 175 and are particularly pleased there is a section in the legislation that requires municipalities to have dedicated reserve accounts. As I told you before, financial sustainability is a very important aspect when you're looking at one's assets. We believe the bill is a good framework, and it is our view that it must be strengthened if we are to achieve the goal of creating a sustainable water and sewer system. As the bill now stands, there is too much left to regulation and not enough provision entrenched in the legislation. As I told you, we're active members of the Ontario Sewer and Watermain Association. I'm sure you have heard and have dealt with their amendments, so I won't bore you and go through them all again. I just want to let you know that they are excellent amendments and they are required, because legislation is just that, a framework. Municipalities, the province and the private sector need to work within that framework to make sure we achieve the goal of clean drinking water and proper waste water treatment.

Ultimately, ladies and gentlemen, what we're talking about here is responsible government, grade 10 history. That's what our country was founded on: responsible government providing responsible legislation to those people who are responsible for making sure that the water and waste water systems are dealt with accordingly. I don't think much more can be asked of our government, and I don't think much more can be asked of the people.

I thank you for your time and will answer any questions, if I may.

The Chair: Thank you. I'm going to give the next three minutes to the official opposition.

Mr Levac: Just a quick clarification. Is that clock right, Mr Chairman?

The Chair: The clock is right. I think we have to be sensitive to the fact there will be a vote just before 6 o'clock—

Mr Levac: That's why I'm asking.

The Chair: —so I'm making it more like 14 and a half minutes each. No offence to the—

Mr DiPede: Not at all.

The Chair: This way, we get to hear the last two presenters as well.

Mr Levac: I appreciate it, and I will be quick.

I think you, along with all of the deputants up to this moment, have offered amendments to a perfect piece of legislation that somebody seems to think doesn't need any work. The Consulting Engineers of Ontario have taken what you've just said and really broken it down. I don't know if you were able to hear or understand what they were talking about. There needs to be an awful lot of work in front of, which I'm assuming they would like to see in some legislation; if not in this piece, at least in companion legislation. Do you agree with some of the comments that were made by the Consulting Engineers of Ontario?

Mr DiPede: To be perfectly honest with you, I wasn't here to hear what they had to say. From what I've seen from our association, I would say there definitely has to be collaboration between the consulting engineers, municipalities and the government in dealing with these issues. I would say I agree with some of them, but I can't actually comment on each individual issue they may have brought up.

Mr Levac: Is it fair to say that from some of the comments you made and which are indicated in their report that we need to do an awful lot of homework in front of this particular stuff so that we can get a grasp of what we have, the cost it's going to be—

Mr DiPede: I think homework has to be done, but at the same time, if we get the framework in place, it's always better to work within a framework than it is to try and change everything before you actually get it into place.

Mr Levac: Justice O'Connor indicated in his report—I know it's been quoted on several occasions by many of your members, but I haven't heard these ones where he also said that he doesn't think municipalities should be selling off their water and sewer systems. He thinks there should be some financial support by the government of the province for small communities that can't get this up to standard. He also says that individuals should not be burdened with a pay-as-you-go rate that could burden their particular ability to pay. Do you agree with those recommendations that Mr O'Connor has made?

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Mr DiPede: In principle, of course, but I think the thing that has to be made clear is that we don't have to burden people tomorrow with the full cost of bringing their water and sewer systems up to date. Smaller municipalities can take time in dealing with them and come up with a plan that makes sense and that could take—well, I'm not going to quote years, but five or 10 years. Also, I think this government has done a good job of providing, whether it's through AMO, OSTAR or SuperBuild, that support that is required for those municipalities.

In principle, yes, people should not be burdened right away, but ultimately it's not a burden. As a taxpayer of Ontario, I'd rather our money be spent on something as basic as clean water and proper waste water than cutting corners just to meet certain budgets that can't be met.

The Chair: Thank you for coming before us here this afternoon.

CREDIT VALLEY
CONSERVATION AUTHORITY
LAKE SIMCOE REGION
CONSERVATION AUTHORITY
TORONTO AND REGION
CONSERVATION AUTHORITY

The Chair: Our next presentation listed on your agenda is the Toronto and Region Conservation Authority, but I think we may have representatives from more than one conservation authority. Good afternoon and welcome to the committee.

Ms Rae Horst: Thank you very much, Mr Chairman and members of the committee.

The Chair: Perhaps I could ask you, just for the purposes of Hansard, to introduce yourselves.

Ms Horst: We have with us Sandra Hanson, who is director of corporate services for the Lake Simcoe Region Conservation Authority, and Craig Mather, who is CAO of the Toronto and Region Conservation Authority. I'm Rae Horst, general manager of the Credit Valley Conservation Authority.

Thank you very much for the opportunity to speak before you today. Congratulations on introducing Bill 175, An Act respecting the cost of water and waste water services. This, we feel, is a great step forward toward implementing Justice O'Connor's recommendations. As noted by Justice O'Connor, source protection is cited as the first barrier in a multi-barrier approach to protecting drinking water.

We feel Bill 175 is an immediate opportunity to make explicit in legislation that source water quality and quantity protection through watershed management is an eligible component of full cost accounting for water and waste water services. The cost of drinking water treatment and waste water assimilation will be reduced by, and is heavily dependent on, maintaining good quality, abundant source water.

Currently, at least five conservation authorities, including Toronto and Region Conservation Authority, Credit Valley Conservation Authority, Lake Simcoe Region Conservation Authority, Grand River Conservation Authority and South Nation Conservation Authority—some of the largest conservation authorities in the system—receive funding from municipal water/waste water rates for a range of water management activities, including many of those identified by Justice O'Connor as necessary for source protection plans. As an example, in 2002 the region of Peel contributed funding to the Credit Valley Conservation Authority for water quality and quantity source protection, including water monitoring, water quality strategy, water budget, subwatershed restoration, water management strategy and subwatershed plans. These are all necessary components of source protection plans as envisioned by Justice O'Connor.

In addition, full cost accounting must include the cost of watershed infrastructure that provides the source of water supply or improves waste water assimilative

capacity of the receiving stream, including the infrastructure that is operated by the conservation authorities on behalf of one or several municipalities. For example, within the Credit Valley watershed, the Island Lake reservoir is integral to assimilating the waste water from the Orangeville sewage treatment plant. It was largely built for that purpose and it is half the flow to that plant. This is a legitimate cost in the provision of drinking water and treatment of waste water.

On behalf of the Credit Valley Conservation Authority, the Toronto and Region Conservation Authority and the Lake Simcoe Region Conservation Authority, we recommend that Bill 175 should explicitly state that activities and infrastructure related to source water protection should be eligible expenditures from municipalities through their water/waste water rates. We recommend subsections 3(4) and 4(4) be amended accordingly.

Thank you very much for the opportunity to speak with you.

The Chair: Thank you. That certainly affords us time for questions from the caucuses.

Mr Dunlop: I was interested to see, in your fourth paragraph, that you mention "water budget" in the third line. I happen to know what that is, and I know a lot of people probably don't know what that means, because I've talked in the past to—is it Vicky?

Ms Horst: Erin.

Mr Dunlop: Would you explain to the committee what that is?

Ms Horst: The water budget is an assimilation of the total—you have to do a study on your total groundwater and your total surface water. From that you figure out how much water is available in the system for use. You have to marry that with the water quality, because not all the water is good for use. Once you know how much water is in the system, you know whether you can meet the needs of the users who are currently there. The Credit Valley is currently 20% over-allocated.

Mr Dunlop: You allow permits based on that?

Ms Horst: MOE allows permits based on that.

Mr Dunlop: My understanding was that when you developed a water budget for the Credit Valley, you had a program with the MOE and OMAFRA that helped develop that.

Ms Horst: MOE/MNR paid \$100,000 in 2001, but the municipalities paid \$130,000 in 2001. In 2002, we got roughly equivalent money, with the municipalities contributing a little more. So it has been a joint partnership with the province and the municipalities, with the municipalities contributing a little more.

Mr Mazzilli: Just one quick question; I want to make sure I've got this right. Obviously the bill deals with a lot of things, but it doesn't deal with the financing. You want to ensure that not only the distribution system is full cost recovered but that, say, the dam at the Upper Thames is part of that process—

Ms Horst: Yes.

Mr Mazzilli: —where you're looking at the true picture, not just the distribution of water but long before you get to that.

Ms Horst: And source protection.

Mr Mazzilli: Good. Thank you.

Mr Bradley: One of the challenges you face in protecting the source of water supply for any municipality is your ability to comment as a conservation authority when developments are proposed under the Planning Act of Ontario. Can you think of any changes that should be made in either the regulations or the policies related to development proposals that come before you, if you want to protect that water, recognizing that in some instances you are either consulted too late, not consulted at all or your recommendation is ignored?

Ms Horst: We believe Justice O'Connor's recommendation that in the case of source water protection, particularly with respect to drinking water, all other plans should be consistent with those plans having been developed. Currently they are not consistent. We do sub-watershed and watershed studies and tributary studies, and it's at the goodwill of the municipality that those are included in their official plans and enforced. So we're hopeful that, through Justice O'Connor's recommendations, in order to protect source water, good drinking water quality and quantity, those plans and any subdivision plans that are subject to those plans will have to be consistent with the source protection plan as proposed by Justice O'Connor.

Mr Bradley: The Environmental Commissioner, in his last report, revealed to the Legislature and to the public that the number of water monitoring stations on our streams and rivers and other waterways in the province had gone down to 240; in 1995, I believe there were 730. Is it your view that these monitoring stations provide a useful service, and would you recommend that they be restored to at least the number there were in 1995?

Ms Horst: Yes. These monitoring stations are absolutely critical to protecting water quality and quantity. The Credit and the Grand managed to keep most of their monitoring stations. We've put in a lot more since—the Credit did. But they are absolutely fundamental—critical—to protecting water quality and quantity. As we're under greater and greater pressure from urbanization and pollution, we have to know what's going on and we have to be able, then, to react to it quickly.

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Mr Bradley: In addition to the funding that comes from municipalities, would you look forward to a restoration of funding from both the Ministry of the Environment and the Ministry of Natural Resources for various purposes that would assist you in protecting water, particularly since you were cut so drastically in the early years of the government by the Ministry of Natural Resources?

Ms Horst: We believe there need to be new funding mechanisms for conservation authorities and that the full brunt should not go to municipalities. There are con-

sumptive users out there, and I think what's really important is consumptive use of water. There are many consumptive users who are not paying. For instance, water bottlers, irrigation, golf courses and even agricultural users and country folk like myself should be paying something for water itself. Even municipalities at this point are not paying for water itself; they only pay for infrastructure.

We strongly believe there should be new funding mechanisms for source protection. We believe this municipal ability to pay for water in some form, such as water and waste water rates, should be maintained, but the government needs to come up with new funding mechanisms, not necessarily from MNR and MOE or directly from the provincial government but from users.

The Chair: Thank you for coming before us here this afternoon.

Ms Churley: Do I get a question?

The Chair: You missed your rotation, Ms Churley. Sorry about that.

J. WEBER CONTRACTING LTD

The Chair: That takes us to our final presenter of the afternoon, J. Weber Contracting Ltd.

Mr John Weber: Good afternoon. I'm John Weber, president of J. Weber Contracting Ltd and a director of the Conestoga Heavy Construction Association. Both J. Weber Contracting and the Conestoga Heavy Construction Association represent the sewer and water main industry, and we are pleased to have this opportunity to present our views on Bill 175.

J. Weber Contracting was founded in 1975 in the Kitchener-Waterloo area. I presently employ 25 to 30 people. Our work area is Kitchener-Waterloo, Cambridge, Guelph, Fergus, Elora and Elmira. The primary focus of our workload is approximately 80% related to infrastructure renewal of sewers and water mains in the above-noted communities.

As founder, past president and presently director of the Conestoga Heavy Construction Association, I also represent 30 local companies in the tri-city area that employ 2,000 to 3,000 people in the sewer and water main industry. Being the front-line people of the sewer and water main industry, I believe we are more than qualified to express our views and comments on Bill 175.

Both the Conestoga Heavy Construction Association and J. Weber Contracting are committed to the maintenance and expansion of the province's vast network of water and waste water systems. We are, therefore, supportive of Bill 175, because maintaining a plentiful, healthy water supply requires a continuous investment by governments and consumers. This legislation is an important step toward insuring that Ontario's water and sewage systems are financially sustainable, good for public health and environmentally friendly.

Currently we are faced with a critical need to invest in our water and sewage infrastructure. The "out of sight, out of mind" philosophy does not work. Walkerton

proved this. I have encountered several situations in the past couple of years that could well have been Walkerton disasters all over again.

While reconstructing sewers and water mains in a prominent area of Kitchener last year, it was discovered that six homes were receiving water from a one-inch diameter plastic line that had been in operation for 20 to 30 years with no blow-off or cleanup at the end, only a service connection to the last house. The potential for E coli forming was as high as in the Walkerton scenario.

On other jobs, we are still removing old water mains containing lead joints. Last week I pulled out a Transite water main in Elora, and also water mains with decades of sludge running at 50% capacity. Many of the systems do not contain cleanouts or flushing devices. This means that no testing, flushing or cleaning can be done to older sections.

Presently, we are working in Elora on a reconstruction job installing new sewers and water mains. The scary scenario is that all the existing houses are on septic beds that are within 300 to 400 feet from the Elora Gorge. These beds are a minimum of 15 to 20 years old and could be leaking into the gorge or into the existing water table. Several of the homes have also been serviced with a one-inch pipe full of corrosion. This new infrastructure will eliminate these problems, but without legislation and upgraded infrastructure, as per this bill, several municipalities across the province would be able to keep situations like this out of sight, out of mind.

We have been a proponent for full cost pricing and accounting legislation for many years. We believe it is the only way to secure much-needed new, upgraded infrastructure, and to protect public health and the environment. It is also a means to stabilize business cycles and future planning for us and municipalities. This act specifies that the full cost of providing services should include operating costs, financing costs, renewal and replacement costs and improvement costs. With this in mind, we want to commend the government for moving to implement this policy.

We support Bill 175 and we are particularly pleased that there is a section in the legislation that requires municipalities to have dedicated reserve accounts that are segregated from the general revenue accounts. While we believe the bill is a good framework, it is our view that it must be strengthened if we are to achieve the goal of creating sustainable water and sewage systems. As the bill now stands, there is too much left to regulation and not enough provisions entrenched in the legislation. With a dedicated reserve account, infrastructure projects can be scheduled and completed on time. Several projects in my community have been delayed by years, not due to the shortage of funds, but delayed because the funds were used for other reasons, ie, buying land or building arenas. Water is more important. One particular project causes flooding every rainfall, which in turn enters our sewage system. This excess water is then treated at the sewage plant. The water main has been noted to break two or three times a year. Several thousand gallons of treated

water are lost. The cost of delay of this is very expensive. If the dedicated reserve fund was in place, this project would have been completed several years ago.

The Ontario Sewer and Watermain Construction Association has made suggestions for strengthening the bill, and we support these amendments, which are very important.

First, full cost pricing should be legislated as mandatory for all provinces. Putting this principle in the legislation will signal the government's serious intent and, most important, it will ensure that full cost pricing becomes a reality in Ontario, the first jurisdiction in Canada. While we agree with the concept that municipalities should be allowed flexibility in how they achieve this goal, we do not think there should be any flexibility about whether they implement full cost pricing.

Second, the legislation should be amended to include a specific date for compliance.

Third, we think the legislation should entrench the user pay principle to prevent municipalities from being able to hide the cost of water within the property tax. Walkerton had one of the lowest flat rates for water in Ontario. We believe Ontarians should pay the full cost of extracting water, processing it and piping it to their taps.

Fourth, we believe the legislation could improve with a more precise definition of full cost pricing: supplying, operating, maintaining, renewing.

Fifth, the legislation should be amended to include metering. Allowing consumers to see exactly the amount of water they use and its relation to cost will promote conservation and environmental protection. Those who use water should pay for it, because right now we are in an enormous deficit of clean water.

If the legislation and the proposed amendments come into force, the government will need to ensure both environmental and financial compliance by municipalities. This may be a monumental task for one ministry alone. To address this, the Ministry of the Environment should be responsible for environmental oversight, while the Ministry of Finance/SuperBuild should be given the financial oversight responsibility.

Our motto for your and our futures relating to the water and waste water systems should be, "Conservation, Preservation and Restoration." Thank you.

The Chair: Thank you very much. Recognizing the bells are ringing—the clock is visible up there—I'm going to give a minute and a half to each caucus, starting with the official opposition.

Mr Bradley: My question gets to the issue of what I consider to be the replacement of bad piping that exists

now. In many municipalities now you have what is called brown water that is ending up going through the system. That's largely because of deteriorating older pipes that are found within the boundaries of those cities. How extensive a problem is that across Ontario, particularly in older communities, that of deteriorating pipes that are virtually falling apart?

Mr Weber: I can only comment on our area. I would say in the Kitchener-Waterloo tri-city area we are probably in the 40% range that have to be replaced. As I said, as of last week I'm still excavating Transite pipes; I'm still excavating lead joint pipes. They've been there for years.

Ms Churley: Thank you very much for your presentation. Sorry we're in such a rush here. You mentioned the need for funds specifically for water, I believe, that SuperBuild could be used for arenas and a lot of other things. Is that what you were referring to?

Mr Weber: I found that with some of our money in Kitchener, the grant came in for infrastructure but the municipality turned it around and used the word "infrastructure" to put a new library in place.

Ms Churley: Right. That was always a concern we had. We also found out that the government underspent \$171 million in the municipal partnership initiatives, so only \$29 million of that was used, and we're concerned it's going to go right back into general revenues. They said it had to do with approvals and finalizing contracts. Do you know what that might be about, why that money would not have been spent, with the needs so big out there?

Mr Weber: I believe it wasn't spent because it wasn't defined by the government where it had to go. I think with this bill now, bringing the government in as a partner has defined exactly where the money is designated to go to bring our infrastructure back.

Ms Churley: Thank you.

The Chair: Thank you very much, Mr Weber. I don't think there are any questions from the government side.

Mr Dunlop: We're going to waive our time.

The Chair: Thank you very much for coming before us. We appreciate it.

Ms Churley: Can I have a very, very fast question to the committee clerk? Were there any people in Ottawa who requested to be on and we had to turn down?

Clerk of the Committee (Ms Tonia Grannum): No.

The Chair: Thank you very much. The committee stands adjourned until tomorrow at 9:30.

The committee adjourned at 1752.

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Thursday 21 November 2002

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Jeudi 21 novembre 2002

Standing committee on general government

Sustainable Water and
Sewage Systems Act, 2002

Safe Drinking Water Act, 2002

Comité permanent des affaires gouvernementales

Loi de 2002 sur la durabilité
des réseaux d'eau et d'égouts

Loi de 2002 sur la salubrité
de l'eau potable

Chair: Steve Gilchrist
Clerk: Tonia Grannum

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LEGISLATIVE ASSEMBLY OF ONTARIO

ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

STANDING COMMITTEE ON
GENERAL GOVERNMENTCOMITÉ PERMANENT DES
AFFAIRES GOUVERNEMENTALES

Thursday 21 November 2002

Jeudi 21 novembre 2002

*The committee met at 0933 in room 151.*SUSTAINABLE WATER AND
SEWAGE SYSTEMS ACT, 2002
LOI DE 2002 SUR LA DURABILITÉ
DES RÉSEAUX D'EAU ET D'ÉGOUTSSAFE DRINKING WATER ACT, 2002
LOI DE 2002 SUR LA SALUBRITÉ
DE L'EAU POTABLE

Consideration of the following bills:

Bill 175, An Act respecting the cost of water and waste water services / Projet de loi 175, Loi concernant le coût des services d'approvisionnement en eau et des services relatifs aux eaux usées;

Bill 195, An Act respecting safe drinking water / Projet de loi 195, Loi ayant trait à la salubrité de l'eau potable.

UPPER THAMES RIVER
CONSERVATION AUTHORITY

The Chair (Mr Steve Gilchrist): I'll call the committee to order for the purpose of continuing our clause-by-clause consideration of Bill 175, An Act respecting the cost of water and waste water services, and Bill 195, An Act respecting safe drinking water. By video-conference this morning, we're pleased to be joined by the Upper Thames River Conservation Authority as our first presentation.

Good morning, and welcome to the committee. We have 15 minutes for your presentation, and you can divide that as you see fit between strictly presenting or leaving time for questions and answers. The floor is yours.

Mr Don Pearson: I appreciate the opportunity to address the standing committee on general government with our comments on Bill 175 and Bill 195. The comments are presented on behalf of the Upper Thames River Conservation Authority.

We wish only to accomplish two things: we would like to express our view that Bill 175 should recognize that watershed management activities which accomplish source water protection and waste water assimilation are

necessary components of full cost accounting for water and waste water services; and secondly, we'd like to reinforce our view that source water protection should be included in the Safe Drinking Water Act as presented to the Honourable Chris Stockwell, Minister of the Environment, in September of this year during public consultations on Bill 195.

We'd like to begin by commending the government for a variety of initiatives that it has undertaken in order to protect our water resources. These include: funding for the groundwater studies and the monitoring programs that will provide us much-needed information on ground-water quantity, quality, as well as recharge zones and areas of aquifer vulnerability; as well, the funding for the municipal clean water programs, which are components of the healthy futures for Ontario agriculture program that provides funding to implement best management practices that will help protect both surface and ground-water resources; the Nutrient Management Act, Bill 81, that will provide regulations to ensure the proper use of not only manure but chemical fertilizers throughout the province; the development of Bills 195 and 175, designed to implement recommendations from the Walkerton inquiry; and the appointment of the source protection planning advisory committee to help establish a framework for source protection planning across the province and the inclusion of representatives of Conservation Ontario thereon.

While these measures are helping us to move toward ensuring that we have both the knowledge base and necessary tools for source water protection within the province, we believe that there is a need for the inclusion of references to watershed management and source water protection in Bills 175 and 195 and we outline our rationale in the following sections.

This is specifically in regard to Bill 175.

Bill 175 demonstrates that the province is committed to moving toward full cost pricing of water by requiring the development of plans for the provision of water services to the public, including extraction, treatment, and distribution of water. This measure is intended to provide the funding necessary for infrastructure and treatment costs associated with providing safe drinking water to consumers who are on communal systems.

In our view, a key element that doesn't appear in this list of eligible costs is source water protection through specified watershed planning and management activities. Inclusion of watershed management as an eligible com-

ponent of full-cost accounting for water and waste water services would provide for an essential and legitimate funding mechanism. We understand, and we agree, that source protection is the first barrier of a multi-barrier system to prevent contamination of drinking water supplies.

We further understand that new funding mechanisms are necessary to protect drinking water sources. For example, we have calculated that the capital costs of implementing best management practices within the tri-county area of Oxford, Middlesex and Perth, for rural impacts alone, total around \$75 million. While this may seem costly, it is generally believed that the costs of preventing the contamination of our water resources are much less than the costs associated with remedial measures or end-of-pipe treatment.

The case for attaching the costs of source water protection-specific watershed management activities to water rates is further supported as follows: it acknowledges that there is an intrinsic value of the water that exists in the environment; it represents a relatively minor incremental cost in the per household costs of water—it's currently estimated at 5 cents per household per day and would require an additional 4 cents per day, and these statistics were included in Conservation Ontario's submission to the Walkerton inquiry part two; it provides an incentive for water conservation; and it recognizes that many municipalities, including London, St Marys, Woodstock, Ingersoll and Chatham, within the Thames, rely on increased flow within the waste water receiving streams to enhance their capacity to assimilate waste, which is provided by reservoirs, operated by the conservation authorities, including, in the Thames, Wildwood and Pittock reservoirs.

We also recognize that additional funding mechanisms will be required to ensure that sufficient financial resources are available within those more sparsely populated areas of the province, where local rates will be incapable of supporting the task at hand. Further, a mechanism will be required to ensure that those users not on communal systems will have an opportunity to contribute in an equitable way toward the cost of providing secure sources of water. These mechanisms need to be further explored, possibly through the work of the source protection advisory committee and others, but what is essential at the present time is that this opportunity be preserved through an appropriate amendment to Bill 175.

In regard to Bill 195, the Upper Thames River Conservation Authority continues to be concerned that source protection and watershed planning are not acknowledged in Bill 195. While we appreciate that the government plans to implement Justice O'Connor's source protection recommendations through amendments to existing legislation, such as the Environmental Protection Act or the Planning Act, the inclusion of a reference to source water protection in the Safe Drinking Water Act would institutionalize source water protection as the first barrier in the multi-barrier approach to safe drinking water.

0940

As we had noted in our submission in September, in the United States the Safe Drinking Water Act was enacted in 1974 and it focused on providing safe drinking water at the tap. In 1996, this act was amended to recognize source water protection. The purpose of the amendment was to emphasize comprehensive health protection through risk-based standard setting, increased funding, reliance on the best available science, prevention tools and programs and strengthened enforcement authority for the EPA, as well as public participation in drinking water issues.

We appreciate this opportunity to present our comments and concerns and look forward to working with the government to help protect our drinking water for present and future generations.

Those are my comments. I'm more than happy to answer any questions that members of the committee might have.

The Chair: Thank you very much. That offers us two minutes per caucus for questions. We'll start with the official opposition.

Mr Dave Levac (Brant): Mr Pearson, I want to thank you for your presentation and wholeheartedly endorse your concerns about source water protection.

I also want to use that to ask this question: in your particular conservation authority, have you been able to secure any funding as an organization to protect water in any way, such as OSTAR or any other projects? Are you qualified to receive funds?

Mr Pearson: We are. The one program that I mentioned we refer to locally as the clean water project. That program is under the auspices of the Ontario Ministry of Agriculture and Food. It was known as the healthy futures program, and we're moving into the second year of implementation of best management practices with that. We also secured funding from the municipalities to complement that funding and in a two-year period we'll be implementing projects of over \$5 million in value, primarily aimed at protecting surface and groundwater supplies.

Mr Levac: Do you have concerns in your area about the spreading of human waste?

Mr Pearson: I don't believe that the concerns around the spreading of human waste are, shall we say, of any higher concern than spreading of livestock waste. I think principally the Upper Thames watershed is agricultural by geographic area. Even though we have significant urban populations, the predominant land use is agriculture. It is rural and urban land use practices that obviously contribute nutrients as well as bacteria and other things. So I would say that biological human waste is a component but it's not one that has a particular caution flag beside it, at least in our case.

Mr Levac: As in the old-fashioned honeydew trucks that go around spreading waste on land.

Mr Pearson: Yes. It's our belief, again, that regulations—there already has been discussion in terms of suitability of biosolids, and I think measures are being

taken to ensure that biosolids are controlled and handled properly so that we don't have a perpetuation of pathogens in the water supply.

Ms Marilyn Churley (Toronto-Danforth): Thank you very much for your presentation. I fully concur that the full cost recovery should include the source protection, but that leads me to, and you did allude to it, how municipalities are going to pay for this. Of course, when you add one more thing to what constitutes full cost recovery, then you've got even more of a charge, which in principle we accept.

But what I wanted to say you, and here's my approach, is that the Ontario government should come in as a full partner in the beginning and make sure that there is a program to deal with capital investments to get the systems up to snuff, get them up to date and help pay for those huge capital costs, and then have the municipalities deal with the full cost recovery once that system is up and running. Otherwise I fear it just won't be doable. Do you have a comment on that?

Mr Pearson: I think, again, various funding mechanisms accomplish different things and quite clearly municipalities are cost sensitive. At the same time I think there's a need, in terms of a whole strategy for managing water and protecting drinking water sources, for an element of user-pay to be there to ensure that people value water and that they also have the ability to offset their costs by actively pursuing conservation measures. So certainly I think the tool of user-pay is an important link for municipalities to operate the system over time. You may be correct in that the capital costs up front may require specific government participation to make it affordable.

The Chair: Very quickly.

Ms Churley: OK. The NDP, when we created the Ontario Clean Water Agency, had a capital program that included, as part of being able to get the money, that you had to build in conservation. I just wanted to tell you that. My time is up.

Mr Garfield Dunlop (Simcoe North): Mr Pearson, thank you for the presentation this morning. I want to ask a couple of quick questions. One was, you received money in your program under healthy futures. Did you receive money under the groundwater and monitoring program of the Ministry of the Environment?

Mr Pearson: This is specifically with respect to developing the groundwater studies throughout our area?

Mr Dunlop: Yes.

Mr Pearson: Yes, we've been involved in those studies in an administrative and a project management capacity. All the municipalities within the area affected by the Upper Thames have studies underway, completed or in various stages of completion.

Mr Dunlop: Thank you. Just to go to Bill 175 and source protection for a second, with regard to the source protection cost, Bill 175 contains a provision that provides authority to recover "such other costs as may be specified by regulation." I'm getting the impression from you—and I want to just make sure I'm clear on this.

Should the government consider making changes to Bill 175 to provide greater clarity by naming source protection costs within the context of providing water and waste water services to the public?

Mr Pearson: I suppose the current reference provides for regulations which would allow that but, again, if it's explicit I think it would offer a little bit more comfort that it can be considered in the future as one mechanism for funding that aspect of the water treatment and delivery system, which is ensuring that the water supply you're drawing from is protected. So my answer would be yes, a specific amendment which speaks to source protection as an eligible cost would, in my view, offer better assurances.

The Chair: Thank you very much for coming before us here this morning. We appreciate your presentation, Mr Pearson.

Mr Pearson: Thank you very much for your time.

RIVERSIDES

The Chair: Our next presentation will be from RiverSides, Mr Kevin Mercer. Good morning. Welcome to the committee. Again, we have 15 minutes for your presentation, for you to divide as you see fit.

Mr Kevin Mercer: Thank you very much, members of the committee, for your time. I'm Kevin Mercer. I'm the executive director of RiverSides. We're an urban water quality non-point source pollution prevention organization located here in Toronto, working Canada- and US-wide.

I'd like to address my remarks to this committee with regard to issues of municipal non-point source pollution prevention and lot level source protection.

Source protection basically lies at the heart of the Safe Drinking Water Act and infrastructure act. While treatment, testing and public oversight of these measures is clearly a priority of the bill, their capacity to ensure safe drinking water surely begins with the cleanliness of the source water utilized.

I ask this committee to consider the importance of protecting water quality before its treatment. It may be at odds with the spirit of this bill, but what we deserve to do in this province is—and I am paraphrasing my notes here—we need to do less of the engineering science administration of drinking water and more of the protection of the source control and organization of water quality protection.

First, with regard to Bill 195, the treatment of drinking water reflects the contamination of that water—a simple fact, to be sure, and one that is continually glossed over in discussions, until recently. The non-point source pollution of water in Ontario consists not so much of textile or paint or automotive factory discharge, but of everyday runoff consisting of road runoff—which itself is heavy metals, oils, greases, road salts and asbestos—cosmetic fertilizers and pesticides, pet feces, oil erosion, air deposition and combined sewer overflows. Virtually every city and town in Ontario discharges combined

sewer overflows consisting of fecal matter, dental mercury, chlorinated cleaners, solvents and so forth.

0950

These non-point sources are recognized by the US EPA's Clean Water Act as the major degrading factor for both aquatic environment and drinking water. Not surprisingly, however, we have no non-point source programs here in Ontario, and virtually none in Canada. To this day in fact we tend to treat rainfall and its subsequent flows as "storm water," but generally make little effort to address the source protection of water that we rely upon for our drinking.

One significant and socially challenging example of a non-point source that I'd like to bring to your attention is simple road salt. You may not be aware that on December 1, 2001, Environment Canada and Health Canada, after five years of exhaustive study, declared their intention to list road salts, all of them—sodium, calcium, magnesium and potassium—as environmentally toxic substances under the Priority Substances List, schedule 1 of the Canadian Environmental Protection Act, 1999. In short, this means that road salt is in the company of many recognizably toxic substances you wouldn't want in your water. Although this act does not address it, road salt is one of the significant degraders of water quality in Ontario, as mentioned by Justice O'Connor.

I'd like to note, by the way, that road salt is no different than what you put in your food. It is a natural substance, as its proponents say it is, and yes, it is also a toxic substance. Salt is only natural when it is in the ground and left alone. When you mine it and spread five million tonnes a year on our roads and sidewalks and parking lots, 150,000 tonnes of that in Toronto alone, you change the benign substance into a threat to clean water and the biodiversity upon which life depends. That term, "the threat ... upon which life depends," is a direct quote from the Priority Substances List report by Environment Canada.

Here are a few of the salient facts about road salt. It does not decay. Once you get it in your water, it is always there. Only distillation takes salt out. The towns in Wellington county, Ontario, many of which rely upon groundwater, are currently facing the likelihood that continued use of road salt will eventually contaminate their drinking water. Furthermore, we know that the salt currently turning up in wells throughout Ontario is likely representing only 50% of all the salt used. Most importantly, the salt showing up in those wells was likely laid down at some time in the 1960s.

While action is being taken to manage the salt we do use, we are limited to, at this point, better salt management as opposed to the replacement of salt. One of the most important points to make is that municipalities who lose their groundwater and drinking water systems to road salt will usually be forced to implement expensive piped water systems, usually from Great Lakes sources, with treatment levels far beyond their existing necessity, all of this because we have an ill-forged assumption that

driving on clear black roads takes some sort of perverse priority over the protection of source water.

I urge this committee to consider taking substantial steps to ensure that the current actions being planned by Environment Canada with regard to road salt reduction and a cap on road salt use are implemented and strictly enforced.

The second point I'd like to make in my notes today concerns non-point source contamination, and particularly the necessity for municipal lot level pollution prevention of storm water. Most people tend to address storm water as an ill, something that belongs in sewer pipes, shunted as fast as possible to either the receiving water body or to a storm water pond where it concentrates the non-point pollutants picked up during its short but significant journey to the sewer pipe. It does not bode well for Ontario that the majority of municipalities are moving toward an end-of-pipe treatment for storm water while we are also concerned about the financial health of water and sewer systems around the province.

Source protection simply means that we capture, infiltrate and prevent pollution where water falls, otherwise known as the lot level. Furthermore, it means that we practise pollution prevention. To do otherwise invites a lifetime of trying to solve the very problem we aim to prevent time and time again. Lot level management of rainfall from non-point source wet weather must be a priority of these bills.

In closing, I urge the members of this committee to consider amendments to the bills before you and to address non-point source pollution through lot level pollution prevention as a requirement for municipalities' wet weather management, with particular attention to the impact of road salts on our waterways and drinking water. I thank you for your attention.

The Chair: Thank you very much. That leaves us two minutes per caucus for questions. We'll start with Ms Churley.

Ms Churley: Thank you very much, Mr Mercer, for your presentation. I am glad that you focused on salt and pollution prevention, because neither of the two bills we have before us deals with source protection. The bill about full cost recovery, for instance, doesn't include source protection and we're arguing and we'll make an amendment that it should. At the same time, there's nothing in the Safe Drinking Water Act about it, and I'm concerned that we're not going to see a bill with the amendments to the EPA before the next election.

So I'm just wondering what your approach would be, what advice you would give to the government at this point in time for getting to the first steps of source protection. Would you, for instance, start with road salt and a few things, and say let's just act on those now? Or—

Mr Mercer: I have two comments with respect to that. One is with respect to municipal wet weather flows. I believe that it's very important for municipalities to act at the lot level rather than to consider end-of-pipe treatment. We have a history in Ontario of working at the

end of the pipe with regard to treatments of wet weather flows. By and large, the costs and the burdens, both in terms of infrastructure and water quality, have not borne out the value of that approach.

Secondly, with regard to pollution prevention and the replacement of toxic substances with non-toxic substances, road salt in particular is a considerable threat that ought to be addressed at a water quality level. Municipalities are directly responsible for the contamination of their own water bodies, as are roads departments, which threaten groundwater sources.

So I would say that amendments from this committee addressing these two matters would be priorities.

Mr Norm Miller (Parry Sound-Muskoka): Thank you, Mr Mercer, for your presentation. Particularly, your information to do with road salt is very interesting and I think a problem that has to be dealt with. I am wondering what sort of suggestions you would have in terms of a replacement for road salt. Are there other types of substances that will help to—

Mr Mercer: Absolutely. There are a number of non-toxic approved substances; calcium magnesium acetate and sodium formate are both mentioned as appropriate alternatives.

I would suggest that the opportunities to reduce salt use by at least 50 are significant. I think what it requires is the leadership of this committee with regard to source protection of water quality as one of the key components. I know Justice O'Connor did touch on the issue. The existing national consultations on road salt management by Environment Canada, of which RiverSides is a member, are examining ways and means for the better management of road salt. But what I would suggest this committee put in its bills is a recognition of the damage that road salt has done to groundwater and surface water sources in Ontario to date and the potential long-term implications of the continued use of road salt as a road de-icer.

Mr Miller: I don't have much time, so I just want to touch on one other point. I think that probably there is a large problem out there with the average person just pouring things down their drain, assuming it's no longer their problem. I mean things like household cleaners, paint thinners, things they have around the house that they dispose of. Do you have any suggestions on how we change that, how we can improve things from where we are now?

1000

Mr Mercer: With regard to non-point discharge at the residential lot line, I think it's significant that municipalities have addressed serious bylaws against institutional and commercial properties, but that residential properties tend to be exempt from serious bylaws. I would strenuously encourage this committee to ensure that municipalities extend their serious bylaw conditions to residential properties as a primordial point for water quality and sewer quality protection.

The Chair: For the official opposition, Mr Colle.

Mr Mike Colle (Eglinton-Lawrence): Thank you very much for the very informative presentation. I hope

we can get a hard copy of that. I know it will be in Hansard but I think it's something we may want to share with other people in terms of this issue.

I'm just thinking about road salt. I know we talked about this 20 years ago at the city of Toronto and Metro and I think basically there's been no change; they're still using an inordinate amount of salt. I'm sure it's the same across the province. Maybe we've got to get the message out that there are alternatives and, especially in light of the tragedy of Walkerton, maybe we can start to make people appreciate what some of the ingredients are that we put especially in our sewers.

The other thing is just what goes into so-called sewers and whether we have to have some kind of strict regime in place to send a strong message that a sewer is not necessarily a dump for liquid or chemical wastes. Have you seen any kind of program or regimen instituted where we can get the public to appreciate the fact that in the long run these sewers are connected to water quality?

Mr Mercer: Absolutely. There are a number of programs. The city of Ottawa did one called WaterLinks. The city of Toronto has done considerable work in the past as well. These tend to be underrated as opportunities for pollution prevention, but I believe that as time continues we will expand them. They are linked mostly to issues of combined sewer overflow.

If I can just take a second to give the committee a bit of background: primarily, the key to what goes into our sewers is to identify where it enters the sewers. I would strongly recommend to this committee, particularly with respect to municipal infrastructure, that you recognize that the individual lot level, ie, the residence, the institution, the business, is where the problem begins and ends. Once it's in the sewer, that's the problem. We have to address the issue where it begins.

How do we keep things out of the sewers? We do it through informed connected education programs—the Ottawa WaterLinks program is a good example—the idea being that we want to make the connection between watershed water quality and what you put in your sewers, whether that is your sanitary sewer or your storm sewer. We have a tendency in Canada to undervalue the protection of storm water as a water quality source. That's most important, the salient point being that more water quality is degraded from storm water than from untreated sanitary sewage. It's a very significant factor.

The Chair: We've gone over time, but thank you very much for coming before us this morning.

Mr Mercer: Thank you, Mr Chair, members. I appreciate it.

HAND ASSOCIATION OF SEWER, WATER MAIN AND ROAD CONTRACTORS

The Chair: Our next presentation will be from the Hand Association of Sewer, Watermain and Road Contractors. Good morning. Welcome to the committee.

Mr Donald Sloat: Good morning, Mr Chairman, members of the committee. My name is Donald Sloat.

I'm the president of the Hand Association of Sewer, Watermain and Road Contractors. Thank you for the opportunity to present our views on Bill 175.

The Hand Association represents over 60 member companies that are involved in the construction, material supply or provide a service to our industry in the Hamilton and Burlington area. Naturally, our organization is committed to the maintenance and expansion of the province's vast network of water and waste water systems. We are therefore supportive of Bill 175, because maintaining a plentiful, healthy water supply requires a continuous investment by government and consumers.

Being from the Hamilton area, Hamilton being an older city, we see over the years the infrastructure crumbling. There have been reports done by the city showing that they're hundreds of millions of dollars behind. Hamilton has adopted some of these procedures and is now dedicating a separate account for the sewer and water main and is moving in that direction.

This legislation is an important step toward ensuring that Ontario's water and sewage systems are financially sustainable, good for public health and environmentally friendly. Currently, we are faced with a critical need to invest in our water and sewer infrastructure.

We have been a proponent for full cost pricing and accounting legislation for many years. We believe it is the only way to secure much-needed new, upgraded infrastructure and to protect our public health and environment. It is also a means to stabilize business cycles and planning for us and the municipalities. With this in mind, we want to commend the government for moving to implement this policy.

We support Bill 175 and are particularly pleased that there's a section in the legislation that requires municipalities to have dedicated reserve accounts. While we believe the bill is a good framework, it is our view that it must be strengthened if we are to achieve the goal of creating sustainable water and sewage systems. As the bill now stands, there is too much left to regulation and there are not enough provisions entrenched in the legislation.

I am aware that the Ontario Sewer and Watermain Construction Association have made suggestions for strengthening the bill. We support these amendments. I will just go through a few of them.

First, full cost pricing should be legislated as mandatory for all municipalities. Putting this principle in the legislation will signal the government's serious intent and, most important, it will ensure that full cost pricing becomes a reality in Ontario. While we agree with the concept that municipalities should be allowed flexibility in how they achieve this goal, we do not think there should be any flexibility about whether they implement full cost pricing.

Second, the legislation should be amended to include a specific date for compliance. We recommend that the government phase in the policy change over a five- to eight-year period. This will help municipalities manage the transition to full cost pricing and protect consumers from undue rate hikes.

Third, we think the legislation should entrench the user-pay principle to prevent municipalities from being able to hide the costs of water service within the property tax.

Only through a transparent user-pay method will conservation occur. As Justice O'Connor said, "[Requiring] people to pay the full cost of the water they use ... gives them a better appreciation of the value of water, and encourages them to use it wisely."

Fourth, we believe the legislation could be improved with a more precise definition of full cost pricing. This will help ensure a level playing field: consumers and municipalities will know what they are paying for and the same costing methodologies will be in place across the province.

Fifth, the legislation should be amended to include metering. Metering is the most effective way to ensure that each user's consumption is tracked and billed. Allowing consumers to see exactly the amount of water they use and its related cost will promote conservation, efficiency and environmental protection.

If this legislation and the proposed amendments come into force, the government will need to ensure both environmental and financial compliance by municipalities. This may be a monumental task for one ministry alone to oversee.

To address this, we agree with the suggestion that the best way to ensure that the legislation is implemented as intended is to amend the legislation to dictate which ministry is responsible for overseeing the environmental aspects of the bill and which is responsible for the financial aspects. The Ministry of the Environment should be responsible for environmental oversight, while the Ministry of Finance/SuperBuild would be given the financial oversight responsibility.

Thank you again for the opportunity to address the committee.

1010

The Chair: That affords us just under three minutes per caucus for questions. This time we'll start with the government members.

Mr Dunlop: Thank you so much for being here today and for your presentation. We heard from a number of the Ontario Sewer and Watermain Construction Association yesterday, certainly from members and companies, and full-cost pricing is mandatory for municipalities—I want to read from the explanatory note that is actually in Bill 175: "The act specifies that the full cost of providing services includes operating costs, financing costs, renewal and replacement costs and improvement costs. The full cost may also include other costs specified in the regulations." I want to know what other costs you mentioned today and are not discussed here that you might consider should be added.

Mr Sloat: The full cost of delivering it and maintaining and fixing the water system that is currently in use. I'm not sure whether it's all covered in that. It needs to be fully accounted for.

Mr Dunlop: We certainly do appreciate the amendments you've brought forth. We think we could justify a

lot of it. I really don't have anything else, Mr Chair. I just wanted to thank him for that comment.

Mr Levac: Mr Sloat, I appreciate your concerns of the people that you represent. You indicated in your proposal that if this legislation and proposed amendments come into force, the government will need to ensure that the environmental and financial responsibilities are maintained and held by the municipalities.

I do have a little bit of a concern with that. As you know, Justice O'Connor also included in his recommendations three things that I'd like to point out specifically. One of them was that the municipalities are prohibited from selling off their water and sewer systems to the private sector and that the government should be providing some financial support for water and sewer infrastructure for smaller communities and those that find themselves in financial strap; and also that higher rates on an individual basis do not become a burden on low-income families, or those who do not have the means to pay their water bills along with their hydro bills along with all the other downloaded costs.

Do you concur that those three issues, and maybe a few others, should at least be acknowledged in this legislation, either through regulation or as part of the bill?

Mr Sloat: We agree that water and sewer and water mains should remain in public hands. I think you're leaning toward privatization. We really feel that whoever runs it should be people who can do it the most cost-effectively. I don't think one or the other. You had—

Mr Levac: The other two were regarding individuals having difficulty paying their bills and government assisting municipalities to pay for those services—the upgrades.

Mr Sloat: On the government assisting in paying for those, I believe the AMO has put forth some suggestions for some help in that, and I think they're very valid. Another thing is that the government should maybe look at SuperBuild to assist them in getting their water systems in order so they can comply.

Mr Gilles Bisson (Timmins-James Bay): I want to join in thanking you for your presentation; It was interesting. I guess I come at this and say there are a couple of things that are very basic for human beings: the air we breathe and the water we drink. It seems to me that although what we're trying to do as far as making sure there's enough money in the system to maintain a safe drinking water supply is laudable, I worry that we'll end up in a situation where you're going to have residents paying a heck of a lot more for water with this particular scheme because of removing some of the responsibility from the provincial government for funding the construction and maintenance of water systems. My question to you is, what is your feeling as far as the end result of this? Does this mean, in your view, that people will be paying more for water than they pay today directly?

Mr Sloat: I believe they will, and from what I've been led to believe, anywhere from \$2 to \$6 a month. I've talked to different people who say, "I turn my tap on and

the water is there. Why should I have to pay for it?" People don't understand how it gets to their house.

Mr Bisson: Doesn't it make more sense from a global perspective, as far as paying for the water, to do it through our tax base rather than an end-user system, paying by way of a fee at each home? The way we've established many services in Canada has been to socialize the cost through our tax system. Wouldn't it make more sense, in order to have the province make sure the money is there, along with municipalities, to provide that service, rather than making yet another user fee? All we're really doing is shifting it from a tax burden to a user fee. Aren't we better off to say, "Let's get the province and the municipalities to clearly identify what each one's responsibility is for building and maintaining a water system and basically doing it through the tax base rather than on an end-user basis?" Because in the end it's basically a user fee.

Mr Sloat: I've been on a water meter where I live; I can't remember when I wasn't. I know it promotes my conserving water when I'm watering my grass or what have you.

Mr Bisson: But we have a hodgepodge now. There are a number of municipalities—99% of the communities in my riding are not on water meters. I think Kapuskasing is the only one that has them. What I'm saying is that from the perspective if the end user, it's just another tax. If I get a bill from my city to pay for water as an end user, it's just another tax. Are we deferring it from the tax system and putting it as a user fee? Aren't we better to upload all that to the municipal governments and have them adequately fund safe drinking water as set out in the Walkerton inquiry rather than do it as a user fee?

Mr Sloat: I don't know.

The Chair: Thank you very much for coming before us this morning. We appreciate your presentation.

We find ourselves with a cancellation in the next spot and the next presenter has not yet arrived at the video-conference centre in London.

Mr Bisson: Are the next presenters here?

The Chair: No, there are no other presenters in attendance at either venue yet. So we'll declare a recess for 10 minutes and reconvene at 10:30.

The committee recessed from 1019 to 1029.

SEAN ROBINSON

The Chair: I'll call the committee back to order. Our next presenter is Mr Sean Robinson, joining us by video conference. We have 10 minutes for your presentation. You can either use the whole time your for your presentation or you can leave time for questions and answers. The floor is yours.

Mr Sean Robinson: I should mention that I'm mainly speaking to Bill 195. First of all, I'd like to declare that water is a right and not a commodity. It's commendable that our government has addressed the problems with water safety in this province, but I believe the bill has not gone far enough in protecting the citizens and the

environment. I believe it should declare that water is a right and not a commodity. Also, the government should do its best to protect our water and state that it should be public and not private.

Walkerton has shown us the needs for funds to be increased for the MOE budget and the MNR budget.

I think it is important that the province ban bulk water and groundwater exports, and also that it declare that it's more cost-effective to deal with pollution at the source and not at water treatment facilities.

A water council should be set up immediately with the approval of the Legislature. The council should set contaminant levels that are the most stringent levels in the world. I think it would also be a viable solution to set up an electronic water registry where citizens can regularly check water quality.

The bill should set stringent reporting standards for companies that discharge waste and waste water into our water system and also directly increase funding to police such measures.

A study should be done to study the impact of water removal and/or increases in watersheds and its impact on watersheds, industry, agriculture and the population.

Another important factor should be stringent penalties for labs that fail to release adverse water tests to the public with due diligence, and also a general increase of funding. I would like to stress again, for the Ministry of the Environment and the Ministry of Natural Resources, above 1995 levels, to meet current needs.

I think it is a bit of a tragedy that Bill 195 is focusing on licences and applications for water treatment facilities. I believe it just opens up this sector for privatization, which will lead to more tragedies like Walkerton.

I'd like to open it up for a brief period of questioning and I would like to hear your comments on what I've said.

The Chair: Thank you very much. That gives us about five minutes, to be divided among the three caucuses. This time we'll start with the official opposition—about a minute and a half each.

Mr Levac: Thank you, Sean, for your presentation. You make a mention about Bill 195 that you're concerned about privatization. I'm sure you're aware that Justice O'Connor made it clear that municipalities, in Bill 175, should not be selling their water utilities to the private sector. Are you unequivocally assuming that the government should be saying no to privatization of the provision of those services or even the construction of those services? Can you clarify your position on that a little bit?

Mr Robinson: Both, I guess. I think it is necessary to keep the construction public and also the administration of such services.

Mr Levac: Thank you.

Mr Bisson: I'm Gilles Bisson, the NDP caucus. First of all, I agree with most of what you've said. I believe that we should remain in a public system for water. I believe, as you do, that transferring to the end user in the way we're suggesting by way of this bill is just a tax by another name. We should basically utilize our tax system

to pay for water, and it should be by both provincial and municipal levels of government.

But my question is a different one. This technology: do you find it a disadvantage in presenting to this committee by way of video conference rather than doing it in person? I'm not a big fan of this technology.

Mr Robinson: Neither am I, but it also has its benefits.

Mr Bisson: You were supposed to say no. I'm trying to build up the case to get rid of this so we can get people like you to come to Toronto.

Is there any time left?

The Chair: Thirty seconds.

Mr Bisson: You mentioned the issue that this opens the door to privatization of the handling of our drinking water. Can you expand on that a bit? Why do you feel that? Is that part of the government's agenda?

Mr Robinson: Definitely. I believe it is. They've shown it with hydro, health care etc.

Mr Bisson: Gotcha. And that's why I hate this technology. We have to speak in small syllables. Thank you.

The Chair: Oh, the urge to editorialize, but I won't.

Instead I will ask, any questions from the government?

Mr Miller: Thank you, Sean, for coming before the committee, via video conferencing this morning. We appreciate it. I do have questions to do with your public, not private, recommendations. I would just like to point out, of course, that Walkerton was a public facility, not a private facility—

Mr Robinson: An underfunded public facility.

Mr Miller: —that had problems. In fact, there are no private water systems owned by municipalities in the province. I also understand that Justice O'Connor has not made a recommendation to do with privatization. I don't think the government is trying to encourage privatization of water systems. In terms of my riding, Parry Sound-Muskoka, probably most of the water systems are private just because they're small businesses, they're not a municipal system.

I just wanted to clarify that Walkerton was a publicly owned and operated water system. I don't know whether public versus privatization—

Mr Robinson: Which your government did underfund.

Mr Miller: Say again, sir?

Mr Robinson: Which the Conservative government did underfund.

Interjection.

Mr Miller: Yes. Thank you very much, Sean, for coming before the committee today. I appreciate your comments.

Mr Bisson: Thank you, Sean.

Mr Robinson: Thank you.

The Chair: That's our time, Sean. Thank you for your presentation this morning.

LINDA PITNEY

The Chair: Our next presenter will be Ms Linda Pitney. Good morning. Have a seat. Welcome to the

committee The mikes will come on automatically. We have 10 minutes for your presentation, for you to divide as you see fit, between presentation or questions and answers.

Ms Linda Pitney: Thank you very much. I prepared the presentation so I could read it and not get off track, and get through it in 10 minutes.

I've headed this "The Pathology of Movement, Illegible Handwriting and the Toxic Pollutant in our Environment."

My name is Linda Pitney. I am president of the non-polluting Canadian College of Kinesigraphy. Our focus is on forensic examination. I'm the person they call on if there's a forged cheque, a forged will, a forged anything. They'll come to me. I worked on the Hurricane Carter case, the Bernardo case, Homolka's handwriting. That's our expertise. As well, we are interested in study and research of the neuropathology of fine grapho-motor control.

As well, I'm a resident in Ontario and a business owner in Ontario who's looking out of province at the present time to get away from the pollutants in my own province. That to me is a big concern. When I look at a government that's very concerned themselves, not regarding the individuals, it would appear, but rather the bankbooks of their corporate donors, we know that Eves and his friends are continuing to avoid environmental regulations. Why? Because it would appear that they would cost their corporate donors big time. Who suffers? It would appear we do. Toxic poisons continue to flow freely into our air and water, and everyone seems to have an interest in the continuation of that toxic flow.

I'm concerned personally that many of the findings of Walkerton Judge O'Connor seem to have been removed from the bill by this government.

1040

But away from that, I question, what evidence do we actually have that our water is dangerous to our health? I'm only going to speak on my own expertise, which is forensic writing examination and neuropathology. That's what I will cover and just leave it at that.

The delicate anatomy of handwriting: briefly, the writing impulse that we all take for granted originates in the cortex of the human brain. It travels through the movement centres in the brain such as the substantia nigra and other pathways before traveling to the spine, where it's relayed to muscles of the arm, forearm, hands and fingers. I think most people don't know this, but up to 52 muscles, 30 bones, 20 joints and 16 nerves create that neuroanatomical symphony we nonchalantly call handwriting. When we write a cheque, there's a chance we're moving up to 50 muscles. Without doubt, this is an extremely sensitive monitor of the vulnerable nervous system that quickly reacts to neurotoxins or any type of poisons in the air.

How did all this start? How did I go from forensic work into poisons? Well, my research into the links between toxic exposure and hand steadiness and handwriting legibility began in Quebec, where I studied the illegible art and often undecipherable writing of native

Canadian Indian students. Teachers there regarded the shaky scrawl of these kids as just normal. They said, "Well, they just have messy writing." I said, "But why?"

The students all lived in a region that totally depended on lake fish in James Bay. This area was the victim itself of Quebec's James Bay 1, an atomic energy project that resulted in soaring levels of the potent neurotoxin called mercury. When mercury was earlier dumped into Minimata Bay in Japan, it was again noticed that motor control and coordination of area residents dramatically deteriorated. Handwriting and art skills plummeted along with this.

Recent neurotoxic nightmares: today the ingredients and dangers of vaccines—there are a lot of neurotoxins in them—and Gulf War vets' syndrome are becoming more understood. Both vaccines and chemicals that the Gulf War vets were exposed to during the war contained powerful neurotoxins—again, neurotoxin, poison to the nervous system. Steadiness depends on the nervous system. We don't want poisons in there. Note the Bay Street CEO who recently ended up paralyzed because of a vaccine which had neurotoxins in it.

What do we have that proves there's something going on, that something's wrong with the water? If you have what I dropped off, my enclosures, you'll see from Pollution Watch, which I believe is funded by the government or works with the government, the types of neurotoxins that are being spewed into the Ontario water system. It's frightening. I leave it with you. I don't have the time to get into that.

But what does all this have to do with Ontario water, you may ask? I feel the real enemy, of course, is big business and certain politicians who seem to be in many back pockets. The result is the pouring out of high levels of neurotoxins and other organ-sensitive poisons into our water. These organ-sensitive chemicals can affect the brain, spinal cord, digestive system, intestines, endocrine system, you name it. It can be very specific.

In closing, handwriting sheds light on the dangers of neurotoxins: are we seeing deterioration in writing skills in a high proportion of people being vaccinated? Are we seeing deterioration in Gulf War vets? Are we seeing deterioration in people living in high-pollution areas of Ontario? The answer to that, without question, is yes.

So to further inform regarding writing connections to the nervous system, which I believe is very, very important—and if you check your medical journals, you'll start to see more and more articles on the handwriting link to the nervous system and to different disorders.

I'm coming at it differently, because I'm looking right at the specific neurotoxins to see which cause the greatest effects. I would suggest that anyone interested and certainly the people who are here, politicians—sincere politicians—are more than welcome to come to one of our seminars on this very issue. Please investigate the site, Pollution Watch. That was the site that removed me, just pulled me out of Toronto and sent me northward, because when I found out what I was breathing through the air, what I was drinking through my water, that finished me.

We lost a dog. The dog died of lung cancer; a beautiful dog, walked three times a day, but the vet informed us that this was very common because of the water that the animals are drinking—more and more vets are noticing this happening—the air etc. Lung cancer—dogs don't smoke.

So please investigate Pollution Watch site. It's down right now, but once it's up, check it out. If you have another info you'd like me to help you with, please feel free to give me a call. That's my presentation.

The Chair: Thank you. We have time for one quick question. I'll give the time to Mr Bisson.

Mr Bisson: Very quickly, you alluded to the danger of both drinking water and air when it comes to affecting motor skills. Are there any good studies that we can get our hands on to take a look at some of the results across Ontario?

Ms Pitney: I will do a good search on that and I will get it back to you. How long would I have to get it?

Mr Bisson: Well, it's something I'd be interested in taking a look at; I don't know if this committee is going to have time to look at it, but if you can please forward it to the NDP caucus, I'd love to see it.

Ms Pitney: OK, I will for sure.

Mr Bisson: And I agree with you. They want to privatize everything under the sun.

Ms Pitney: If they could begin to pull themselves away from issues and corporations that want to privatize etc, they would begin to look at their own selves. They would begin to say, "Hey, I breathe this air, I drink this water," regardless of who, what company, is trying to get politicians into their back pockets.

Look at your own riding and ask yourself, "Is it getting worse?" And more and more people have complained that indeed it is getting worse.

Mr Bisson: Mine's getting worse.

Ms Pitney: I thank you very much for this opportunity and again—

Mr Levac: Just as a quick point of order, Mr Chair: Could I get that information sent through the clerk so that we can all have access to it after it has been compiled?

Mr Bisson: Yes, we're asking if you can forward it to the committee Chair so that all the caucuses have access to it.

The Chair: The Chair or the clerk, either one of us. That would be great. We'll make a copy for all the members of the committee.

Thank you for your presentation.

Ms Pitney: Thank you very much.

The Chair: Notwithstanding the request that we make of all participants to show up 20 minutes before their scheduled time, we appear to have no presenters standing by.

Interjection: Are there any presenters here?

The Chair: No, there are no other presenters in attendance as yet, so we'll take a five-minute recess.

The committee recessed from 1049 to 1100.

SIERRA CLUB OF CANADA, EASTERN CANADA CHAPTER

The Chair: With that, I'll call the committee back to order. Our next presentation will be from the Sierra Club of Canada, Eastern Canada Chapter. Welcome to the committee. Have a seat, please. Just a reminder: we have 15 minutes for your presentation and you can divide that as you see fit between presentation or question-and-answer time.

Mr Levac: A quick point of order, Mr Chairman: Regarding the missed presentation, if they have a written submission, could we eventually get that forwarded to us as well?

The Chair: I will be pleased to ask the clerk to take care of that.

The floor is yours.

Ms Maureen Reilly: My name is Maureen Reilly. I am with the Sierra Club of Canada. I am the water quality campaigner. Thanks for inviting me here today. I'd actually hoped to deputize from London, but since we were coming from here today I thought, "Why drive to London?"

Safe drinking water is certainly something that everyone in Ontario wants. However, the proposed act only addresses a certain section of the population of Ontario; that is, the urban residents. This act does nothing to address the drinking water safety of rural residents and other people who are drinking water that doesn't come from a municipal source. Those who live in the countryside or those who are out in the country and drinking water that comes from groundwater or other source waters are not protected by this act.

I feel confident that people in Ontario want to drink clean water, not cleaned water. By that, I mean people want to drink water that was clean to begin with, not contaminated water that has been partially cleaned up through a water treatment plant.

This legislation fails to honour the first principle of safe drinking water, and that's protecting the quality and quantity of Ontario water at source. Instead, it focuses on the treatment-to-tap issues. If this government enacted a thorough, enforceable legislation to protect our lakes, rivers and groundwater, we wouldn't be faced with ever-increasing bills to clean up contaminated water to be fit to drink again. It's corny but it's true: an ounce of prevention is worth a pound of care.

You know that the reports are back on your desks about hormones in the drinking water, antibiotics in the drinking water, endocrine disruptors in the drinking water. That's because even our expensive and luxurious, by global standards, sewage treatment plants and our water treatment plants do not clean up source water from every kind of contaminant. We even contribute with our drinking water standards to certain kinds of contamination, particularly those from chlorinated by-products. So what do we need to do to keep water clean?

It's very frightening to be faced with the prospect of being killed by a glass of water. If the quality of drinking

water is in doubt, that doubt and fear are re-experienced a dozen times a day when thirst drives people to the water tap or the water fountain. In Ontario, this fear and the liability chill that accompanies it have led to the opening of Ontario to a massive corporate drive to profit from our anxiety. Everyone from Coca-Cola on down wants to sell water, often municipal tap water, in overpriced little non-reusable bottles, contaminating the countryside and topping up the landfills.

Huge corporations with headquarters in Texas, France and Germany are poised to squabble over lucrative Ontario water treatment projects as rural municipalities are told they are too backward to manage their own water supply. Outrageously expensive initiatives, like the one that proposes a pipeline to Lake Huron for the long-suffering people of Walkerton, have these companies salivating over the potential to bleed the public purse for decades to come.

The Ministry of the Environment needs to support communities, large and small, to develop appropriate-scale projects to protect the quantity as well as the quality of the source water, and then to provide only the level of treatment of contaminated source waters that is appropriate and necessary. Appropriate-scale initiatives are needed that empower those municipalities, not stampede them into surrendering control of their water, and their budget, to these huge multinationals.

A focus on water treatment, rather than on source protection, essentially facilitates the contamination of source water because people who have paid a big ticket for a pipe to connect them to remediated water then turn their backs on the source water in their own communities. In areas like the Upper Thames from Stratford down to London, there is a watershed where swimming in a creek or a lake is pretty much a distant memory. After financing the huge capital projects for drinking water transport or treatment, people turn their backs on their local water. They get a swimming pool full of chlorinated water or they leave the community to swim. You can often chart the neglect of source water by counting the number of swimming pools in a community.

Rural residents need to get help from this government in assessing their water supply and the fitness of their wells and sanitary systems. They need help in choosing, if necessary, a water treatment technology that is right for their home and their family. The rural household is quite bewildered by the array of companies and technologies competing for their dollar: ultraviolet treatment, reverse osmosis, or do they need any water treatment at all? Reliable information on reliable, affordable technologies needs to be part of what this government offers.

Cleaning up water is a very expensive enterprise. By focussing on the treatment-plant-to-tap aspect of safe drinking water and neglecting the first principle of source water protection, the discussion focuses around, how much treatment can the public afford? Municipalities like Toronto want to start to distance themselves from the water bill by trying to create water boards, like the one that went down in flames this week. What we need to see

is more public involvement in water and the discussion of how to protect and provide safe water. We do not want to see the clean water discussion reduced to essentially a commodity-market-price debate. Water is not a commodity. It is a gift of nature that we need to protect.

First of all, we need to stop water from getting contaminated. What is contaminating Ontario water? I'd like to draw your attention to the fact that sewage treatment plant combined sewer overflow is the number one source of water contamination in Canada, an even higher source of nutrient contamination than farming. Toronto's Ashbridges Bay sewage treatment plant is the number one offender in Ontario for nutrient contamination of water. There is poor storm water management in urbanized areas, and of course there is agricultural runoff from manure and fertilizer that is facilitated by the tile drains that the province has supported in the countryside.

For instance, in the Upper Thames watershed, 85% of farmland is tile-drained. As soon as it rains, in a matter of minutes all the fertiliser and nutrient and sewage sludge and manure on those fields move right into surface water. There's a flooding as well as a destruction of water quality right there. So we need to find some way to manage that question. We've spent a couple of decades and millions of dollars putting those tile drains in. Now we need to restore the water quality in some way that those same pieces of technology aren't killing off our lakes and rivers.

Industrial contamination is certainly a cause of contamination: pulp and paper mills, mines, dredging and deforestation. There are leaky and failing septic systems, and there is land application of sewage sludge, septage, paper mill sludge and other industrial wastes. There is poor management of landfill sites, quarries, golf courses and other land uses.

Strategically, what do we need to do? Launch a water stewardship campaign to encourage people to take pride in their watershed and participate in a public discussion of how to clean it or keep it clean. Much of the work of the Ministry of the Environment is being put on the shoulders of conservation authorities to act as watchdogs in the watershed. But at the same time the lack of reliable financing for these authorities and the tenuous powers invested in them make them incapable of filling the role adequately.

The Ministry of the Environment has been shrunk in size—they're not there any more—and the conservation authority cannot take on the role and responsibility of that incapacitated Ministry of the Environment. The shrinkage in the Ministry of the Environment, the Ministry of Agriculture and the Ministry of Natural Resources has left rural communities far less defended from contamination than formerly. We need more legislation with teeth and more vigorous enforcement.

Groundwater in most of Ontario is vulnerable to contamination by materials placed on top of the soil. The province has for the last decade promoted the practice of spreading many septic industrial wastes like sewage sludge, abattoir waste and paper mill sludge on farmland,

much to the horror of many rural residents. Many communities have tried to protect their residents and their resources from these offensive and dangerous practices by passing bylaws. But the province, while slamming farmers who allow livestock to wallow in streams, actually promotes the application of these more toxic materials in the same watershed. Municipalities that pass bylaws do so for fear that the province will take them to court for enacting bylaws that are outside their municipal jurisdiction.

If you'd like these paragraphs, I can send you an amended copy.

The province should be a more prudent steward of water quality protection and facilitate the passing of reasonable laws both provincially and locally. We need regional facilities with suitable technologies to manage the septage and sewage in an environmentally sustainable way.

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Factory farms are a similar kind of issue. What these issues have in common is that these corporations externalize the cost of their waste disposal on to other residents and the taxpayer. Companies that are allowed to contaminate the environment with their waste stream, whether it's hog manure or paper sludge, get cheap waste disposal while their neighbours have to pay for water treatment, air conditioners and all kinds of other tangible and intangible costs.

The ministry is allowing these kinds of rural waste disposal liberties to contaminate the ground and surface water, and are then spending public funds to clean up only some of that dirty water to be fit for drinking. Clearly, this is unsustainable.

After the Walkerton crisis, the ministry acknowledged that drinking water in the province should only be tested by accredited laboratories. So why does the ministry continue to allow industry to get their waste tested by unaccredited labs? Shouldn't all publicly accountable laboratory analysis be done by demonstrably competent laboratories?

This is just one example of the kind of polluter holiday that is facilitated by lax ministry controls on pollution sources. It's irresponsible to allow this kind of widespread, non-source contamination in the countryside and then bill big-ticket for safe drinking water in towns and cities.

I have a 10-point program; just to keep it simple, 10 fingers, 10 points. I've pretty much gone through them: a water stewardship campaign; vigorous MOE enforcement against water pollution crimes; upgrade sewage treatment plants so they stop polluting lakes and rivers; stop the land application of sewage and septage; include all land uses in the Nutrient Management Act; develop a water education and stewardship component in elementary school and senior grades; license composting toilets so that rural communities have access to a water sanitation technology that doesn't contaminate groundwater; develop a water Web site with interactive capability showing water quality indicators around Ontario; provide conservation authorities with the mandate and continuity

of funding necessary to coordinate watershed cleanup projects; and stop the massive giveaway of Ontario source water by making water-taking permits more restrictive.

Sierra Club supports clean water, not just cleaned water. We pledge to work together with Ontario communities, individuals and the province of Ontario to bring about the protection and restoration of our waters.

Ontario has been blessed with some of the richest freshwater resources on the planet. Now the province needs to act to protect those resources.

The Chair: Thank you very much. That leaves us less than two minutes, so we'll give the time to the government members this round.

Mr Dunlop: Thank you, Ms Reilly, for being here. I'm interested in point 10: "Stop the massive giveaway of Ontario source water by making water-taking permits more restrictive." Could you give me a little more detail on how you would do that?

Ms Reilly: Stop giving it away. I went on the Internet and checked the EBR in my rural community. I have a farmhouse out in Kirkfield. Imagine my horror to find that in my county one company had filed for I think 20 water-taking permits in every major lake and creek in my watershed and had been granted most of them. I heard they were actually taking one- or two-acre parcels, getting the water-taking permits, and then selling the land with the permit to people in England. We should have some environmental accountability around how we husband, how we care for—

Mr Dunlop: Is the water leaving the watershed or is it staying in the watershed?

Ms Reilly: They can do with it what they like once they get it. They don't have to account for what they want to do with it before they get the water-taking permit. I think this company maintains, on the face of it, that they're going to use it to fill swimming pools. As I say, that same company, I gather, is selling off parcels of land to offshore companies with the water-taking permit. It's nice; you get it for nothing and you sell it for money.

Mr Dunlop: I'm just looking for details on that actual recommendation. If you have anything you could add, I would appreciate it.

Ms Reilly: Require an environmental assessment before you hand over a water-taking—look at what that means to the water table. Make them account for the quantity of water. We've got dropping levels of water in the Great Lakes. We've got ships foundering on the shore because the water levels are so low, but we're allowing companies to use water for whatever industrial purpose they like and not necessarily returning it to the watershed.

The Chair: Thank you very much for coming before us this morning. We appreciate your presentation.

LAKE ONTARIO KEEPER

The Chair: Our next presentation will be from Lake Ontario Keeper. Good morning. Welcome to the committee.

Ms Krystyn Tully: Good morning, Mr Chair, and members of the committee. My name is Krystyn Tully. As you know, I'm with an organization called Lake Ontario Keeper. I'm pleased to have the opportunity this morning to present our position on Bill 175, the Sustainable Water and Sewage Systems Act, and in particular will be discussing the sewage systems component to that.

I don't know if you're familiar with the work of Lake Ontario Keeper. We are a relatively new organization. We're part of an international alliance of 99 Waterkeeper programs worldwide. The job of a Keeper is to be the voice of the body of water that he or she works on to maintain a grassroots, community-based focus on water protection.

Lake Ontario Keeper works with individuals and groups all around the lake, both on the Canadian side and on the American side. We monitor water quality, investigate polluted sites. We have two patrol boats to patrol the waters. We work with communities to use environmental laws to protect the water and their communities.

I think it is safe to say that Lake Ontario Keeper is probably one of the few groups you'll hear from that knows what it's like to splash around in the water at the mouth of a combined sewer overflow. I am all too familiar with the smell of raw sewage. I've spent a fair amount of time in it during the past summer.

We've been in rivers in Hamilton, Toronto and Kingston. What we've learned from spending time in those rivers is that waste water operators are not paying at least one of the costs you have identified in Bill 175 associated with providing better waste water services, and that's the cost of treating and discharging waste water.

Basically, our experiences are what I want to share with you today. My understanding of the purpose of Bill 175 is that you want to identify the actual costs of providing the services and ensure that system operators have a plan in place to recover those costs.

Lake Ontario Keeper supports Bill 175 and its objectives because we believe that full cost accounting is the only way we can begin to appreciate the true costs of clean water. Full cost recovery is also the only way we can stop imposing these costs unfairly on others, especially poorer communities, immigrant communities, the fish, the wildlife and the water, that can't vote.

Lake Ontario Keeper's submission is this, four points:

- (1) Too many of the costs of running our waste water systems have been externalized.
- (2) We need full cost accounting and recovery.
- (3) We need clear timelines.
- (4) We need strict compliance and enforcement of environmental standards.

Economists like to use the word "externalities" to describe costs associated with providing a product or service that is not borne by the producer or the consumer. Robert F. Kennedy Jr, who is the president of the Waterkeeper alliance, has another way of phrasing it. He says, "You show me a subsidy; I'll show you pollution."

This is exactly what we're seeing in the case of Ontario's sewage treatment systems. Every time the city of Kingston dumps untreated sewage into the Cataraqui Harbour, it avoids one of the costs of providing a service. Every time Toronto's combined sewer overflow dumps raw sewage into the Don River, the fishers, the swimmers and the wildlife are paying our waste water treatment bill at the expense of their livelihoods, their community and their health.

During the course of these hearings, you will likely hear numerous descriptions of the state of our waste water treatment systems. It is possible that you will hear about millions of dollars in upgrades which have been made and the billions of dollars still waiting to be spent.

I just want to describe the system from the perspective of someone who spends a great deal of time on the water.

In Ontario's large cities, we have sewage pipes and storm water pipes that are connected underground. During dry weather the storm water and the sewage water are taken to sewage treatments plants, treated and then discharged into waterways.

During wet weather, too much storm water enters the system, exceeding its capacity, so the combination of storm water and sewage is dumped into our rivers and into Lake Ontario through outfalls called combined sewer overflows.

Lake Ontario Keeper spent much of this year monitoring combined sewer overflows on the Red Hill Creek in Hamilton, the Don River in Toronto and the Cataraqui Harbour in Kingston. In each city we saw how waste water service providers regularly dump untreated sewage into local waterways, even during dry weather.

In Hamilton, not one single combined sewer overflow on the Red Hill Creek met Ontario water quality objectives for E coli. This was during the dry season, when no bacteria discharges were expected.

In Toronto, sewage pollution renders the Don River unsafe for body contact recreation every single day. City reports estimate that the Don will still be contaminated 100 years from now.

In Kingston, raw sewage discharges have been closing beaches for half a century. Even here in Toronto, local governments claim that beaches are getting better, that beach closures are going down. This isn't because our beaches are getting cleaner; it's because the city of Toronto has closed 50% of our beaches in the last 10 years, and they closed the dirty ones and left open the ones that were cleaner. The beaches that remain open are actually getting worse. Beach closures are going up.

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What happens when service providers try to shirk costs by dumping untreated or poorly treated waste water into our waterways? The costs do not disappear. The costs are borne by citizens who can't swim at public beaches. The costs are borne by fishers who catch, handle and often eat contaminated fish. In our experience, many of these fishers are recent immigrants. They don't speak a lot of English; they're not familiar with ministry guidelines for eating fish; they have no idea how contaminated

the local waterways are. The costs are borne by hunters in other areas who shoot and eat migratory birds that lived and ate in our contaminated waters and then flew somewhere else. The costs are borne by children who grow up expecting that urban waterways are supposed to be contaminated and have no idea about outdoor community and recreational activities which will build healthy communities. The costs are borne by municipalities which cannot earn taxes on what should be prime real estate because our waterways and waterfronts are notoriously contaminated. In short, the costs are borne by everyone and everything that our government standards are supposed to be protecting. That's why we need full cost accounting and full cost recovery.

We're not here really to urge you to consider environmental issues. We're here to remind you that the provincial government already has a legislative duty to ensure that waste water facilities comply with environmental laws.

To safeguard against the misconception that government standards might be optional, sewage system operators should be required to consider the costs associated with treating and discharging waste water in compliance with government standards.

In the current system, standards aren't being met. In the year 2000, 92 municipal sewage plants were out of compliance or conformance. Preliminary figures for last year suggest this is getting worse. Samples we've taken in Hamilton, Toronto and Kingston reveal E coli levels ranging from 9,000 to 20,000 times the Ontario water quality objectives.

The alternative to full-cost recovery, which is to lower our standards and say this is acceptable, is unthinkable. Waterways belong to the public at large and any insult and any interference with our right to access them is akin to an act of theft. As long as our waterways are filled with bacteria, our communities are being robbed of their resources. Many municipalities identified problems years ago. This bill needs to give them the incentives to make the changes now. That's why we need clear timelines.

The city of Kingston has been plagued with beach closure sewage problems for 50 years. Louis-St Laurent was still Prime Minister when they were closing beaches in the 1950s.

The city of Toronto hopes to have its sewage discharges into the Don River stopped in 100 years. Given that water quality is so poor that you can't touch the water in that river right now, that projection is appalling.

We need reasonable timelines within which to upgrade our systems. The goal of Bill 175 is sustainability. It's right there in the title. Clear timelines will ensure that long-term sustainability cannot be sacrificed for short-term gain.

We also need strict compliance and oversight. Just as it's important to have these clear administrative standards, we have to have clear environmental standards. Justice O'Connor noted in his reports from the Walkerton inquiry that standards are rendered meaningless when they're only guidelines. If sewage treatment operators

think they might ideally comply with standards, they're not going to do it. If Bill 175 compels them to comply with environmental standards, they will do it; and if they don't, it gives government and citizens recourse to make sure they do.

Lake Ontario Keeper has a lot that we would like to offer with regard to those environmental standards. I think it's more appropriate to reserve that for the discussions about the regulations that go with Bill 175 and save you some time here today.

I'll just reiterate the four positions: too many of the costs of running our waste water systems have been externalized; we need full cost accounting and recovery; we need clear timelines; and we need strict compliance and enforcement.

At this time, if anyone has any questions, I'd be happy to answer them.

The Chair: Thank you very much. We've got about three minutes. Respecting the fact that none of us around this table can ask people their names in less than a minute, I'm going to give the time to the official opposition.

Mr Levac: Thank you, Mr Chairman. I appreciate that comment.

Thank you for your presentation and congratulations on the good work you do across the province. I know I speak for many people—and not given to any political party—that we appreciate that work.

I'll make these two quick points. Justice O'Connor indicated in his report three key points that I keep looking at, which are: prohibiting municipalities from selling off their water and sewer systems to the private sector; providing some form of financial support for water and sewer infrastructure for smaller communities; and ensuring that higher rates do not become a burden on low-income families and seniors. I'm sure you support that, along with the other comments that are coming up about source water protection as well. If you can comment on that, and I'll leave you with a comment.

My colleague across the way, Mr Barrett—the Six Nations resides in his riding, Brant-Haldimand-Norfolk, a neighbour to mine. He keeps telling us about the seven generations of things we do today and that we must take into consideration what's going to happen to the seventh generation after the fact. It's obvious we have not been doing that. Do you believe this bill is starting to set the tone so that some day we may understand our First Nations had it right 10,000 years ago?

Ms Tully: I think the bill is definitely on the way. Everybody talks about the next generation. It actually occurred to me a couple of weeks ago that I am the next generation, actually. When you tell me that I now have to wait another 100 years before the Don River is cleaned up, I think, wow, if I'm going to have kids, how am I ever going to explain that to them?

I was in Port Hope a few weeks ago and I saw a 16-year-old stand up and ask a question about radioactive waste, saying, "Why did they put it in our community if they didn't know what to do with it?" People are starting

to ask these questions. I think Bill 175 finally provides operators with the opportunity to take into account the costs of the system and to begin to recover some of those costs so that we do have some answers to these questions in the future.

With regard to public versus private ownership, frankly the standards are more important than who owns a system. The fish that are losing their habitat, the fishermen who are losing their livelihood and the kids who can't swim at the beach—I don't think they care who owned the factory that dumped the sewage in their water. The fact that the standards are not being complied with is far more important.

With regard to standards as well, when we talk about people who aren't going to be able to afford the costs, it's perfectly reasonable to subsidize the resource users. I don't think it's reasonable at all to subsidize the resource use itself. I don't think people have the right to exploit a resource, but if you don't have the money for clean water, then definitely you need help. Those provisions can be put in without lowering our standards.

I also think it's perfectly reasonable to accept a phase-in to give municipalities some time, as long as there are clear timelines and also phase in any rate hikes that are going to appear to give people time to adjust to it. I think it's perfectly reasonable to expect people to pay \$6, \$20, \$100 a year for clean water if it also means that we have beaches and commercial fisheries and access to public waterways again.

The Chair: Thank you for coming before us here this morning. We appreciate your presentation.

ONTARIO PUBLIC SERVICE EMPLOYEES UNION

The Chair: Our final presentation in the morning session will be from the Ontario Public Service Employees Union. Good morning and welcome to the committee.

Mr Tim Hadwen: I am here on behalf of OPSEU. I am Tim Hadwen, their general counsel, and I participated actively in the hearings at the Walkerton inquiry.

The Ontario Public Service Employees Union represents almost all of Ontario's front-line public servants, 50,000 or so, and it includes all of the environmental officers, investigators and lab staff who worked in the Ministry of the Environment throughout the Walkerton tragedy and continue to do so, as well as the Ontario Clean Water Agency, water treatment plant operators and other staff who participated so actively in the Walkerton remediation. The union has also participated extensively in the Walkerton inquiry.

In general terms, the members of the union would want to tell you that they're proud of the public services they provide and are proud of the work they have done to ensure safe drinking water for Ontarians. They have gone on doing the best they can, notwithstanding the deep and as yet unrepaired cuts to the Ministry of the Environment

that have so compromised the ability of the staff of the ministry to do its job.

There are many issues that could be raised about the bills that are before you, but it would seem most productive in the time available to focus on a particular issue. The issue I'm going to address is under Bill 195 and it's the wording of sections 6, 7 and 8 of Bill 195. It appears, based on the current wording of sections 6, 7 and 8 of Bill 195, which are in the materials that I provided to you, that the act contains an omission from following through on the recommendations made by Mr Justice O'Connor with respect to who will do the work in the way that was recommended by the inquiry.

1130

The general background to this issue is that Mr Justice O'Connor found that safe drinking water is, perhaps not surprisingly, best ensured by a directly responsible government, a government that does its own regulation and enforcement. He further found that the government should be organized and resourced to fulfill that responsibility itself. Mr Justice O'Connor heard a lot of submissions to the contrary. He heard submissions, including from the current government, in which it was argued that Ministry of the Environment functions should be devolved to other ministries, to outside operating agencies, to third parties, or to industry in the form of voluntary compliance. In the end, though, the commissioner saw the value of the ministry doing the job in question, and found correctly that it is in the public interest and is the best way to ensure safe drinking water for there to be an integrated, dedicated ministry with direct political accountability. He so recommended, and he did so by spelling out some very specific recommendations about the Ministry of the Environment.

In his report, on page 396, the front page of the package of material you've been provided, he summarizes his recommendations with respect to the appropriate structure to be found within the Ministry of the Environment. I want to read quickly from the second paragraph where he says, "I also propose the establishment of a specialized drinking water branch within the MOE responsible for the oversight of drinking water treatment and distribution systems."

Going on to the sentence after the next one, "Within this branch I recommend creating a new position, the chief inspector – drinking water systems, responsible for the inspections program."

He goes on to talk about the role of the individual inspectors, and he says, "The drinking water branch would assume oversight and responsibility for the proposed quality management accreditation program" and "be responsible for granting ... approvals."

In the next paragraph, the commissioner states, "To date, the MOE has conducted investigations and prosecutions of those suspected of non-compliance with regulatory requirements through its investigations and enforcement branch.... I am satisfied that the IEB of the MOE should remain as presently constituted, a separate branch within the ministry."

Turning to the next page in the excerpts you have from the report, you'll see at the bottom of page 409, under the heading "Enforcement": "In regard to investigations and enforcement, the" Safe Drinking Water Act "should maintain the investigation and enforcement function in a separate investigation and enforcement branch (IEB) of the MOE."

So how does the Safe Drinking Water Act measure up to those specific recommendations about how these crucial functions should be carried out? The act does not deal in detail with ministry organization or resourcing, perhaps fair enough, but it does assign tasks to three types of people, and those three types of people are referred to directly in sections 6, 7 and 8 of the act. If I could ask you to have a quick look at sections 6, 7 and 8, you'll see how the assignment of personnel is dealt with.

The first group discussed is directors—this is in section 6. The directors are the persons who will supervise and ultimately approve the issuing of permits, licences, approvals, as well as suspend and sanction persons who are not in compliance.

You'll see that, under section 6(1), "The minister shall in writing appoint such directors...."

Then, under 6(2), "In making an appointment under this section, the minister shall appoint only ... an employee of the ministry or a member of a class of employees of the ministry...." That would seem to be directly in accord with the recommendations contained in the report I read to you a couple of minutes ago.

Then it goes on to say, "or ... a person other than an employee of the ministry or a member of a class of such employees, if the appointment is approved by the Lieutenant Governor in Council."

My point is that it was the recommendation in the Walkerton inquiry report that the functions of the directors are to be carried out by the Ministry of the Environment and Ministry of Environment staff, and that raises a concern about subsection (2)(b) of this section.

The concern, though, deepens when reviewing sections 7 and 8. Because under section 7, the minister is to appoint a chief inspector to carry out a range of crucial duties, not the least of which is, "The provision of advice and recommendations to the minister" and also the monitoring of "the implementation of operational policies" within the Ministry of the Environment. The notable thing, though, in section 7 is what's missing, which is any requirement that the office of the chief inspector be that of a ministry employee. There is no limitation apparent on the face of the act as to who can be appointed a chief inspector, and no requirement that that person be, as intended by the recommendations of the commissioner, a core member of the Ministry of the Environment.

Finally, referring to section 8, which is the section in which the minister is able to designate provincial officers, these provincial officers are, of course, the investigators and enforcers in the investigation and enforcement branch of the Ministry of the Environment who are charged with policing, if you will, the requirements under the Safe Drinking Water Act. Once again, in

section 8, there is no stated requirement, in sharp contradistinction even to the words in section 6, for the staff of the investigation and enforcement branch to be used in this function. To put it another way, there is no stated requirement that the Ministry of the Environment is to carry out this function.

Those sections, in that respect, appear to be significantly inconsistent with the recommendations put forward by Mr Justice O'Connor. Our recommendation is that those sections be changed so that in each case those crucial functions are ones that are to be performed by the staff of the Ministry of the Environment, as has been intended by the Walkerton inquiry report recommendations.

The fact that it's not so in the current act raises concerns about what the intention is under the present act. It may reflect a lack of real commitment to redeveloping the ministry; it may reflect a reluctance to actually comply with recommendations around resourcing; it may reflect a continuing desire to splinter or downsize government; it may reflect a desire to wait until the spotlight has passed but to know that you have the statutory ability to make changes of that kind later on.

Those are concerns that the current wording of the act raises. The way to deal with those concerns and to fully implement the recommendations would seem to be to amend the Safe Drinking Water Act to address those shortcomings in sections 6, 7 and 8. The result of doing that would be to ensure the direct governmental accountability of the kind contemplated by Mr Justice O'Connor. I close by reading from page 430, which you also have in your materials.

"I question whether, if the inspections and oversight role at the time of the Walkerton outbreak had been exercised through an independent third party, the government would have been under the same need to be accountable for what took place or would have taken the immediate action that it did. Immediate and direct political accountability for the regulatory and oversight role is an important safeguard for the people of Ontario to ensure the safety of their drinking water."

The way that safeguard, immediate and direct political accountability, is ensured is to make sure that the persons who are doing the work are ministry persons for whom the minister is directly accountable.

Thank you very much. Those are my submissions. I'd be happy to take any questions, of course.

The Chair: That leaves us about two minutes per caucus. We'll start with Ms Churley.

Ms Churley: Thank you very much for your presentation. I guess nobody can say, "Well, you're from OPSEU and clearly you would always come to protect jobs," because you're quoting directly from Justice O'Connor and the government said that they would fulfill every single one of the recommendations in the inquiry. This is a concern that we really haven't talked much about. The focus seems to be, so far, mostly on source protection and full cost recovery, but I think you've raised a very important and vital point. Of course we'll

be making those amendments which, now that the government has been made aware of them, they will accept, or maybe they'll make them themselves.

I wanted to ask you quickly if you've had a chance to examine the other bill. What do you think about the possibility within that bill—that's Bill 175, the sustainable water act—whether you read it that the government can step in, the minister can step in and force a municipality to privatize its system if they don't like the plan or they haven't come up with a full cost recovery plan?

1140

Mr Hadwen: That raises significant concerns, but I want to point out a particular issue that may not be exactly what you're looking for, which is the role of the Ontario Clean Water Agency, which is one of the groups represented by OPSEU and its bargaining staff. It is important for the minister to have the ability, in circumstances where a municipality is functioning in a substandard fashion, to require remediation efforts to be undertaken and to be in a position to require that the services of the Ontario Clean Water Agency be used. That's the particular comment I have available for you at the present time about those provisions in that bill.

Mr Dunlop: Thank you so much for coming forward this morning with your recommendations. I just want to ask you a question for a moment on the role of OPSEU and the role of what you would deem to be essential services when we're dealing with this act and the inspection of water systems etc. Could you enlighten us on that a little bit?

Mr Hadwen: Under the Crown Employees Collective Bargaining Act there is a requirement for an essential services agreement to be entered into as a prerequisite to any strike or lockout. Under that essential services agreement process, the government and the union sit down and they negotiate what are the essential services and if anybody has any dispute, including if the government thinks the level that is currently available from unions is not sufficient to protect the public interest, they can take the issue to the Ontario Labour Relations Board, which will rule on what level of service has to be provided to make sure that public health and safety, which is the focus of essential services, is maintained throughout. So there is an independent adjudicator with the power to make sure that essential services in respect of water are provided. That's the current safeguard, and in my submission it's adequate; it's doing the job.

Mr Levac: Also, on page 430 of Justice O'Connor's report, in your copied memo to us, I notice something that I don't think we talked about, but I would like a comment from you on it. Justice O'Connor says he has "concerns about the potential for real and perceived conflict of interest if the inspection function is transferred to a body made up of industry representatives."

Could you explain to me why, and I'm not asking you to think for Justice O'Connor, but maybe your opinion on that concern that there might be a conflict of interest in industry self-regulating—and I think he mentioned

Britain in there. That concern came up with the actual water issues.

Mr Hadwen: There's no way I'm going to think for him. I mean, he has done everything that needs to be done there. This issue was canvassed in the inquiry by groups that came forward and said that this kind of industry representational body would be a good way to ensure that water quality standards were adhered to. He heard those representations from groups who were proposing exactly this kind of scheme, and he ultimately found against them on the basis that there is an inherent conflict of interest between being the supplier, the person concerned, if you will, with the profit motive from the running of that business, and at the same time being responsible for ensuring that standards are met.

It's not that industry doesn't have a responsibility for ensuring that the standards are met—of course it does, and it has an internal responsibility which in a lot of cases it takes very seriously—but the point is, that can't be the safeguard for the public. The safeguard for the public has to be that government oversees how it is that industry attempts to comply with an ability to get right inside there and find out how it's going and to deal with any problems that arise.

The final point I wanted to make is with respect to the point Ms Churley raised about self-interest. Of course the union is self-interested in respect of its members. That self-interest may have caused our becoming more pointedly aware of this issue, but we're not asking you to adopt these recommendations on the basis of the self-interest of OPSEU; we're asking you to adopt these recommendations on the basis that they were recommended by Mr Justice O'Connor and are what are important to safeguard drinking water for the citizens of Ontario.

The Chair: Thank you very much for coming before us here this morning and making your presentation. We appreciate it.

With that, the committee stands in recess until 3:30 this afternoon.

The committee recessed from 1145 to 1534.

IPEX INC

The Chair: Good afternoon. Welcome to the committee. We have 15 minutes for your presentation for you to divide as you see fit between either presentation time or a question and answer period.

Mr Veso Sobot: My name is Veso Sobot and I'm a civil engineer with a company called IPEX. We were founded about 150 years ago in Three Rivers, Quebec, and even back at that stage we focused on manufacturing infrastructure pipe. At that time, it was cast iron pipe. It was the first cast iron forge in North America, in fact, that was built there in Three Rivers. Our core business today focuses on manufacturing pipes for the municipal, electrical, plumbing and industrial markets.

We thank you for the chance to speak this afternoon on Bill 175, the Sustainable Water and Sewage Systems Act.

We have 21 plants across the Canada, 11 in the greater Toronto area, and three in the United States. We use Canada as our base but we market in the western hemisphere pretty much.

Some of you may have recognized the name from another place. In 2000, after the Walkerton tragedy had occurred, our group went in and donated some 3,501 metres of water main pipe. What had happened was that the E coli had got encrusted in the old cast iron pipe to such a degree that even after five super-chlorinations they couldn't kill the E coli, and it was very necessary to pull out the infrastructure that was in the ground. Our company donated the pipe and some of the fittings and some of the service lines. This is actually a sample of the Walkerton pipe that is encapsulated in plastic, so you can get a sense of what it looked like. If it's OK with the Chair, I could just pass that around.

Mr James J. Bradley (St Catharines): No germs on it, eh?

Mr Sobot: It's encapsulated, so it should be OK.

A number of other companies in our industry rallied together and donated the fire hydrants and some of the services, and we were able to restore clean water to the citizens of Walkerton in record time. Few of you would ever have seen that written up in the newspapers, because it certainly wasn't carried in the papers, but it was one of those very good news stories that resulted from Walkerton.

Currently, we believe Ontario's water and sewer infrastructure is not sustainable the way it is. Our definition of "sustainable" is very simple. It is that the rate of deterioration is faster than the rate of replacement. It's that simple for us.

Some of the pipes in the ground are aging very significantly. The pipe you have in your hand is about 40 years old, maybe 50 years old. Many aren't lasting as long as they were designed to last or it was hoped they would last, and that's why we say in our definition of "sustainable" that it's not being replaced at the same rate that it is deteriorating.

We hope that Bill 175 will help change that. We are very confident that it will. We support it because, if adopted, it will maintain a plentiful, healthy water supply but it will require, of course, a continuous investment by both government and consumers, and we think, the way Bill 175 is written, that is exactly what will happen. This legislation is an important step toward ensuring our water and sewage systems are financially sustainable.

I don't know whether you might be privy to some of this information, water mains break but on a daily basis across Ontario. The break rate ranges anywhere from 30 breaks to 60 breaks per 100 kilometres of pipe in the ground. Every break creates a breach which then can be a potential for contamination. Once Bill 175 is implemented and is rolling the way it was intended, we think the mechanism will be in place to allow a regular and predictable stream of funds to go back and restore the infrastructure, fix the infrastructure and actually start to

catch up to the infrastructure deficit that has really been mounting over decades and decades.

I live in Burlington. Burlington embarked a number of years ago on a significant program to replace the old rusty iron pipes after a tragic incident that happened in the south-east end of the city. A house had burned down, and when the firefighters went to turn on the water from the hydrants, no water came out. It was because, if you see that sample that is being passed around, the encrustation totally closed up the inside of the pipes so there could be no flow coming through. This particular tragedy claimed the life of a two-year-old.

That was the impetus for Burlington and the region of Halton, in which Burlington resides, to undertake a very significant infrastructure rehabilitation program. They have been replacing their water mains very aggressively in Halton over the last five years.

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A study by the National Research Council quantified the number of water main breaks per 100 kilometres across Canada, and for the cast iron pipe you see there, the average number, you can expect 36 breaks per 100 kilometres of pipe in the ground. When you replace it with new plastic pipe, you can expect the rate to be zero to 0.7 breaks per 100 kilometres. The factor difference, the performance difference, is about 50:1. That's a very significant improvement.

What that leads to in the long run is less water loss, because most cities lose anywhere between 20% to 50% of their water trying to get it from the source to the tap because of water main breaks. Replacing it with new pipe that doesn't break as frequently means that less energy is expended pumping the water to the tap; less chance for contamination; better quality of water that gets to the tap in the end; and the benefit as well is that municipalities get to save a whole bunch of money because they don't have to deal with the enormous number of water main breaks and the costs that are associated with it. Some folks estimate that the cost of fixing one water main break can range anywhere from \$5,000 to \$20,000, depending on where it is and how much of the water main has broken.

A few years ago, the provincial government introduced the municipal performance measurements program, which was designed to collect data on the cost of providing a number of core key services. All municipalities were required to record their water main breaks data. These data have proven to be very valuable because it has created a database so that cities can compare the performance they have with the performance of other cities. That is leading to the situation where best practices are evolving at a faster rate.

What we'd like to say to this group is that that was an excellent step, and we would love to see that continue in the future, with a little bit of fine tuning. There is an opportunity for you to ask for the water main break rate in the municipality by material type, and if they can quantify whether it was cast iron, ductile iron, asbestos, cement, plastic or concrete. Over the long run, what

you're going to do is create an incredible inventory of data that will allow your municipal administrators to make best-practice choices on the materials you use. In that way, you can fine-tune the systems and hopefully reduce costs, improve efficiencies and improve the quality of water as well. So we commend you on the MPMP and we look forward to the natural evolution of the MPMP.

Forgive me, could I just touch on one other point? In the package you have, there is also some information on a National Research Council water main break study. That relates to the MPMP discussion we've just had.

We have been a proponent of full cost pricing and accounting legislation for many years. We believe it is the only way to secure much-needed new, upgraded infrastructure and protect public health and the environment. It also is a means of stabilizing the business cycles and makes it easier for municipalities to plan, to budget and to guess what their needs are in the future. With this in mind, we want to commend the government again for moving to implement this policy.

We are particularly pleased that there is a section in the legislation that requires municipalities to have dedicated reserve accounts. While we believe the bill is a good framework, it is our view that it must be strengthened if we are to achieve the goal of creating sustainable water and sewage systems. As the bill now stands, it is left largely to regulation, and there might be some potential to entrench some more things into legislation that I think will be more beneficial for us in the long run.

I am aware that the Ontario Sewer and Watermain Construction Association, of which we are a member, has made suggestions for strengthening the bill. We support these suggestions. I'll just run through some of them, in addition to one or two that we might have.

(1) Full cost pricing should be legislated as mandatory for all municipalities. Putting this principle in the legislation will signal the government's serious intent and, most important, it will ensure that full cost pricing becomes a reality in Ontario. While we agree with the concept that municipalities should be allowed flexibility in how they achieve this goal, we do not think there should be any flexibility about whether they implement full cost pricing. Full cost pricing, we think, is essential.

(2) Another suggestion is that the legislation could be amended to include a specific date for compliance. We recommend that the government phase in the policy change over a period of five to eight years. This will help municipalities manage the transition to full cost pricing and protect consumers from undue rate hikes.

(3) We think the legislation should entrench the user-pay principle to prevent municipalities from being able to hide the costs of water services within property taxes. Only through a transparent user-pay method will conservation occur. This notion is also echoed in Justice O'Connor's report on the Walkerton inquiry "to require people to pay the full cost of the water they use. Doing so

gives them a better appreciation of the value of water, and encourages them to use it wisely." That's from page 317, part two, of the Walkerton inquiry.

(4) We believe the legislation could be improved with a more precise definition of full cost pricing. This will help ensure a level playing field. Consumers and municipalities will know what they are paying for, and the same costing methodologies will be in place across the province.

(5) The legislation should be amended to include metering. Metering is the most effective way to ensure that each user's consumption is tracked and billed. Allowing consumers to see exactly the amount of water they use and its relation to cost will promote conservation, efficiency and environmental protection. It seems like the right thing to do.

(6) If this legislation and the proposed amendments come into force, the government will need to ensure that both environmental and financial compliance by municipalities occurs. This might be a tough task for one ministry alone to oversee. To address this, we might suggest that the best way to ensure that the legislation is implemented as intended is to amend the legislation to dictate which ministry is responsible for overseeing the environmental aspects of the bill and which is responsible for the financial aspects of the bill. The Ministry of the Environment should be responsible for the environmental oversight, while the Ministry of Finance and SuperBuild should be given the financial oversight responsibility.

And as I mentioned before, but I think it's well worth repeating again:

(7) We commend the government on the initiation of the MPMP program, which I think is now in its third year. The data that are being created by it are very valuable and are being used by municipalities. There is a potential and an opportunity there to refine the information and ask for performance by material type when water mains break. That will provide wonderful data down the road to assess what materials perform better in what conditions. That, I think, will lead to a very good long-term solution and improvement for our infrastructure as we move ahead.

I think Bill 175 should have the support of all the folks around this table, because it is very good for the environment. It's very good for the health of Ontarians. Water quality will increase. I think it will unshackle some of the bureaucratic burden that's associated with administering infrastructure and the funding that has to be analyzed every single year for major projects. This, I think, will help in the very long run. It's a good step in the right direction.

If there are any questions, I will try to field them. I thank you for your time.

The Chair: Actually, we've gone about a minute and a half over time. I thank you very much for coming in and making your presentation before us here this afternoon.

Mr Sobot: Thank you very much.

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UNIVERSAL WORKERS UNION,
LOCAL 183

The Chair: Our next presentation is from the Universal Workers Union, Local 183. Good afternoon. Welcome to the committee.

Mr Andy Manahan: Thank you very much for allowing me the opportunity to speak this afternoon.

My name is Andy Manahan and I am the development promotion representative with the Universal Workers Union, Local 183. Local 183 is a construction union that represents 27,000 workers and their families in the greater Toronto area. Our workforce is established in 21 different sectors of the construction industry, such as housing, water and sewer, roads and other heavy construction activities. We have an interest in seeing this bill approved by the Legislature. The obvious interest would be for the jobs that would be generated, but the main reason we support Bill 175, the Sustainable Water and Sewage Systems Act, is because our members live in Ontario; we all have a vested interest in safe drinking water.

I'd like to add that many of our workers are often the unsung heroes, in terms of construction and economic vitality in the province of Ontario. Obviously, you need financiers and planners and consultants and others, but it's our 183 workforce that is actually on the ground working with our management partners to get the job done. We do have a bit of a shortage of skilled workers right now, so if I can put in a plug to anybody who's watching the cable channel, please think of this job. If you have a propensity for construction work, we do have well-paying jobs and hopefully lots of work in front of us when this bill is passed.

Mr Bradley: It will be one of the high channels now, because they've taken it off the low channels.

Mr Manahan: OK. Channel 60-something, then.

Local 183 is committed to the maintenance and expansion of the province's vast network of water and waste water systems. We are therefore, as I've just said, very supportive of Bill 175 because maintaining a plentiful, healthy water supply requires a continuous investment by government and consumers.

This legislation is an important step toward ensuring that Ontario's water and sewage systems are financially sustainable, good for public health and environmentally friendly. Currently, we are faced with a critical need to invest in our water and sewage infrastructure.

Two days ago, I spoke before the joint committee of the works and policy and finance committee of the city of Toronto. One of the committee members here attended that: Ms Churley.

Ms Churley: Sorry?

Mr Manahan: I was just commenting that you were one of the people who was at the city of Toronto the other day.

Ms Churley: That's what I was just whispering to Mr Bradley.

Mr Manahan: OK, sorry.

It was quite an interesting meeting. There was a proposal to establish a Toronto water board. While there was only a handful of people like myself who spoke in favour of the chief administrative officer's proposal, it was very clear that many residents have a passionate interest in maintaining top-notch water and waste water systems in this city of Toronto. At that meeting, I brought with me some evidence. As you've seen from the previous speaker, this, again, is a cast iron cross-section of water pipe. It's probably about 40 to 45 years old. I understand it's from the city of Mississauga. I could pass it around, if you like, but it's probably similar to the other one.

Mr Dunlop: It's a larger pipe.

Mr Manahan: It's a little bit larger.

Mr Bradley: Where's this one from?

Mr Manahan: Hazel's city, I guess. Mississauga.

Mr Bradley: Wait till I tell her what I saw. The contractors you work for won't get another job.

Mr Manahan: Oh, no. I'd better get serious, then.

This piece of evidence is important because it demonstrates that there has been underinvestment in our water system, there have been capital shortfalls over the years, and this has led to the deterioration of our underground infrastructure, not only in the GTA but indeed across Ontario and Canada.

The tendency by many municipal councils, I believe, has been to defer repair and rehabilitation work in favour of other projects, or to simply reduce spending. In Ontario, our collective mission should be to not only replace thousands of kilometres of pipes every year but also, at the same time, to restore confidence that our water distribution systems are capable of delivering safe and clean drinking water.

I wish to point out that at the presentation I made on Tuesday, Local 183 stressed the benefits that such a public governance model would have for the city; but we also voiced our strong opposition to any privatization of these water and waste water assets. Local 183's first recommendation was to have the city commit to continued public ownership of city W and WW assets through a bylaw. We also supported the addition of expert citizens and environmental groups to the proposed board, believing this would enhance accountability and result in better administration. For your information, the compromise solution by the joint committee that was arrived at includes a stand-alone water committee with seven councillors supported by technical advisory committees with the groups we had put forward. It is our hope that Toronto council approves the establishment of this water committee next week. We believe that other municipalities will need to become more focused on water and waste water issues. This bill will certainly help to crystallize the importance of water.

We have been a proponent for full cost pricing and accounting legislation for quite some time now. Attached

to this presentation is a letter that Local 183's business manager, Tony Dionisio, and I sent to all MPPs on May 22. Of course, when you're writing letters, you have a little bit more time to think of good phrases. I'd like to just read one line, because I thought it was a fairly good one: "In other words, the culture of neglect will be substituted by one in which there is greater environmental stewardship and economic discipline. It is time for the underground water and sewage systems to receive the visibility and priority investment that they deserve."

We were pleased to receive many positive responses from MPPs of all stripes to our letter. I believe that many people in this room and outside of it in Queen's Park share the vision we put forward and understand the importance of this bill. We believe this piece of legislation will be the only way to secure much-needed new, upgraded infrastructure and to protect public health and the environment.

It is also a means to stabilize business cycles and planning for our industry. If I could just talk briefly on that, we do have severe construction cycles in our industry. We're certainly on an upswing right now, but if we can plan, through government investment, legislation and regulations, to kind of stabilize and draw out the upswings and downswings and compress them a little bit, that will be better for the industry and our management partners overall. With this in mind, we want to commend the government for moving ahead to implement this policy.

We support Bill 175 and are particularly pleased that there is a section in the legislation that requires municipalities to have dedicated reserve accounts. While we believe the bill is a good framework, it is our view that it must be strengthened if we are to achieve the goal of creating sustainable water and sewage systems. As the bill now stands, there is too much left to regulation and not enough provision entrenched in the legislation.

I understand that many of the groups that have been here over the past two days have outlined a number of the issues such as full cost pricing and so forth, some of the principles that should be in there, so I go won't into great detail that is contained in the brief.

There is one item which I think is important: metering across Ontario. As I mentioned earlier, conservation is very important and we've certainly seen, with the hydro shock, that people are now thinking about doing other things. Metering, I think, is a way for consumers to see exactly how much water they use. This will help promote efficiency and environmental protection.

If this legislation and the proposed amendments come into force, the government will need to ensure both environmental and financial compliance by municipalities. This may be a monumental task for one ministry alone to oversee. To address this, we agree with the suggestion that the best way to ensure the legislation is implemented as intended is to amend the legislation to dictate which ministry is responsible for overseeing the environmental aspects of the bill and which is responsible for the financial aspects of the bill. MOE should be

responsible for environmental oversight, of course, while the Ministry of Finance and SuperBuild be given the financial oversight responsibility.

The Environmental Commissioner's recent annual report, *Developing Sustainability*, pointed out that the involvement of nine ministries through Smart Growth is a positive move that may signal a significant change in how decisions affecting the environment are made. Local 183 is also a strong supporter of the province's Smart Growth initiative.

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We recommend that the Smart Growth secretariat or the Ministry of Municipal Affairs and Housing becomes involved in this process. A primary objective of Smart Growth is to make strategic infrastructure investments that link spending decisions with where future growth will be directed. Any provincial funding that is provided through OSTAR or other infrastructure programs or, for that matter, through the Canada-Ontario infrastructure program, should be put in place with it in mind that municipalities have approved official plans outlining where their growth is going to take place. We think that's a very important item. In fact, I was at the launch of the Judy Sgro report in Toronto this morning and had an opportunity to mention this briefly to one of Minister Hodgson's senior staff and he thought it was a great point that I should add, so I've done that.

That's the end of my presentation. I'll take questions if you have any.

The Chair: Thank you very much. That leaves us just over two minutes, and I'm going to give the time to the official opposition.

Mr Colle: I guess one of the questions—maybe you or even the previous speaker can answer it—is that we're talking about the cost of maintaining and upgrading water systems and pipes throughout Canadian municipalities, Ontario municipalities. I know they talked about broken water mains etc, and a lot of Local 183 workers would work on those projects, wouldn't they?

Mr Mahanan: Yes.

Mr Colle: One of the things that came to mind when the last gentleman was speaking was that in the city of Toronto there has been a massive program over the last five or six years where they are basically cleaning out the existing, I think, cast iron mains.

Mr Mahanan: Yes.

Mr Colle: I was wondering about the cost-effectiveness of doing that, as opposed to replacing them. My understanding is that they're cleaning calcification out of cast iron pipes, but has there been an analysis to see whether that's the way to go? Obviously Toronto looked at that, but are other municipalities doing that? What is that process called where they flush and clean out—

Mr Mahanan: Relining—they put pigs through and all that sort of stuff.

Mr Colle: Yes.

Mr Mahanan: To be frank, I'm not the best person to answer that question. I'm more of a government relations

person. Obviously I could have brought one of our executives—

Mr Colle: I know, but I just want to put on the record, because Local 183 does some work on that, if someone in the future could perhaps let us know about that. We're talking about municipalities and the cost-effectiveness of what they're doing and not doing, and to see—I don't know if the provincial government ever looked at whether that was cost-effective or not, or environmentally sound.

Mr Manahan: I think each case has to be looked at on its own. Obviously there comes a point when entire replacement would be more cost-effective—sometimes we talk about a Band-Aid solution. I don't know the exact specifics of where in Toronto—obviously, in some parts of Toronto we've got systems that have been there for over 100 years and others that are 40, 50, 60 years old and holding up reasonably well. But there comes a point when the lifespan is at its limit.

Mr Colle: I'll try to ascertain that somehow.

The Chair: Thank you very much, Mr Manahan, for coming before us here this afternoon.

URBAN DEVELOPMENT INSTITUTE OF ONTARIO

The Vice-Chair (Mr Norm Miller): The next group coming before us is the Urban Development Institute of Ontario. Please introduce yourself. You have 15 minutes. You can use the whole time yourself, or you can allow time for questions.

Mr Neil Rodgers: Thank you, Mr Chairman and members of the standing committee. My name is Neil Rodgers. I'm the president of the Urban Development Institute of Ontario, UDI.

The organization has acted as the voice of the land development and real estate industry in Ontario for over 40 years. Our members constitute the collective force in guiding, creating and improving Ontario's built environment. The institute serves as a forum for knowledge and is actively involved in all facets of urban public policy research and advocacy, working with private and public sector stakeholders across Ontario. Our members are vital contributors to the province's economy and its sustainable growth. We are pleased to have this opportunity to speak to Bill 175, The Sustainable Water and Sewage Systems Act.

Safe drinking water is non-negotiable for this government. It is also something the people of Ontario expect will not be compromised. The proposed act provides for good planning, promotes water conservation and is an integral part of this government's clean water strategy.

Currently in Ontario, we are faced with a critical need to invest in our water and sewer infrastructure. This bill begins to address this issue specifically. Therefore, we are supportive of the bill, since maintaining a plentiful and healthy water supply requires a sustainable investment by government and consumers. However, Ontario's

sewer and water infrastructure in many municipalities is not modern, and in some cases is deteriorating.

Mr Justice O'Connor stated in his report, part two, that the risks of unsafe drinking water could be reduced to negligible levels by simultaneously introducing a number of measures. In his findings, he concluded that the following approaches should be implemented: (1) a multi-barrier approach—measures to prevent contamination; (2) a cautious approach—prudent decisions affecting drinking water; (3) the management approach, which would be quality management or operating safety; and (4) oversight through effective provincial regulation. I think you have to look at these approaches as a sieve: if one doesn't catch it properly, hopefully the other three will.

In our opinion this legislation, if passed, will become part of the line of defence to ensure that Ontarians can expect safe, clean drinking water in perpetuity. However, paramount to the multi-barrier approach is not just oversight, regulation or quality assurance. A critical component of the system is ensuring that the sewer and water systems are financially sustainable, safe and in a state of good repair.

The distribution system is the final barrier before delivery to the consumer's tap. Even when water leaving the treatment plant is of extremely high quality, if precautions are not taken with respect to the distribution system, its quality can break down and deteriorate, and in extreme circumstances, dangerous contamination can occur. Distribution systems are effectively composed of water mains and the like. They are expensive, but they do have a long life cycle. Because it's largely buried, distribution infrastructure tends not to be a top municipal priority relative to the host of other competing municipal priorities, such as community centres and the like.

The development industry is responsible for installing sewer and water mains as part of the land development process. Across the province, over \$1 billion is invested annually in water and sewer infrastructure every year. Out of that figure, approximately \$300 million is front-ended by the development industry through the payment of development charges. However, the development charges only apply to growth-related capital resulting from new development. They do not apply to operating costs and/or replacement and upgrades of existing sewer and water systems. It's important to remember this fact and to recognize that the source for capital to pay for sewer and water distribution system replacements is currently limited to municipal reserve funds, which may not necessarily be fully capitalized for the cost of the replacements, or from time to time municipalities do receive funding from senior levels of government. In practice, not all of Ontario's municipalities have appropriate reserves for sewer infrastructure replacements, partly because the outcome impacts the property tax or water rates. This leads to underinvestment in water systems, because much of the infrastructure is literally out of sight and out of mind. The issue at the root of the problem here is the sustainability of investments in sewer and water infrastructure.

I want to add a sidebar to this discussion for the committee's benefit: the Urban Development Institute has been actively pursuing bringing sustainability to infrastructure investments—sewer, water, transit and the like—for Canada's and Ontario's urban regions to the federal government. Certainly with the release of the Liberal caucus task force's urban report, the Judy Sgro report, we are hoping there may be some new thinking on this issue, but more importantly that there will be a steady stream of investment from senior levels of government. Without a sustainable funding model, municipalities cannot adequately plan for the long term for new infrastructure, let alone the replacement of old and deteriorating infrastructure, which can become dangerous to public health.

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The underpricing of water has led to deferred maintenance and overconsumption by users. Deferred maintenance ultimately leads to potential risks to public health and deteriorating infrastructure. This bill includes provisions to ease the transition to full cost recovery, a feature that should give a degree of comfort to the municipal sector and consumers to avoid price spikes in water rates.

The act proposes that municipalities be required to provide an implementation schedule outlining their project plan for full cost recovery, and we support this. At present, municipalities use different methods of determining water rates, and in general few of these methods include long-term investment needs or what will be needed for repair, rehabilitation and/or expansion of related infrastructure. As a result, it's difficult to pin down an estimate of this shortfall.

Legislating full cost accounting and recovery ensures that safe drinking water is a priority municipal service that cannot be traded off for other municipal services. Instilling in the minds of consumers, through municipal accountability, the provisions of the bill will lead to modern sewer infrastructure, water conservation practices by consumers and safe drinking water for all concerned.

UDI is supportive of full cost pricing and accounting legislation. We believe it's the only way to secure much-needed new, upgraded and replacement infrastructure to protect public health and the environment and the concept of sustainable investment. It is a sound and stable means for implementing municipal budgeting purposes. With this in mind, we want to commend the government for moving ahead on this particular policy.

UDI supports Bill 175 and is satisfied that there is a section in the legislation that requires municipalities to have dedicated reserve accounts. This particular concept is quite familiar to the development industry since we sought, and received, similar provisions for reserve accounts through the introduction of the Development Charges Act in 1997. In doing so, it has delivered transparency, accountability and fairness, principles that I think everyone can and should support.

UDI believes this bill is a good framework, and it is our view that it must be strengthened if we are to achieve

a goal of creating sustainable water and sewage systems. Folks before me have spoken to a number of ideas that will add assistance to this bill, and I won't speak in detail about those, but we certainly support them.

This bill marks an important step in the multi-barrier approach to ensuring safe drinking water for the people of Ontario. We must not become complacent about this issue. We must ensure that Justice O'Connor's recommendations are fully implemented and that the tragedy of Walkerton is never repeated.

At issue here are a couple of things: the cost of delivering full cost recovery to consumers and protecting Ontario's water supply. The two, to some commentators, should be considered mutually exclusive. However, in light of what happened in Walkerton and the cost of realizing user pay and full cost accounting of water delivery, the debate must not be confused. Safe drinking water and public health and safety cannot be argued to the point that the debate is just about money. Ontarians are prepared to pay for water, but not prepared to suffer the consequences of not making the right decision. This bill must receive your support.

The Vice-Chair: That allows for a couple of minutes of questioning by the third party.

Ms Churley: Thank you very much for your presentation; indeed I appreciate it. We have heard the same recommendations several times about the approach that you recommend we should take.

I just want to say, as I've said to others, that I support user-pay, full cost recovery, in principle. But we have to be really careful in the assumption that if the users have to pay for everything, including very expensive capital upgrades, then it just wouldn't work. As we know—we just saw rotting pipes—the kind of serious infrastructure work that needs to be done is in the billions of dollars over time. We have to think this through and, so far, mostly we've been receiving the "in principle" recommendation that it be user-pay, which we all support. In fact, I support including source protection in that user-pay.

But I take a different approach, and I think it's critical if we're going to get enough funds, that there be a partnership between the province and the municipalities for the capital funding, whether it's interest-free loans or grants over time with a built-in conservation component, so that for that piece of it at least some municipalities get some grants to be able to do that. Would you support that approach, as we try to figure out what we're talking about here when we talk about full cost recovery?

Mr Rodgers: Your question is a good one. In a perfect world, we would have had legislation like this 20 or 30 years ago and we wouldn't have come to the brick wall that we're potentially going to face in certain municipalities. So your point is correct.

I think what the development industry would support on this issue also is, "If senior levels of government have to come to the table as a transition, in addition to getting this bill through, with either grants or loans to municipalities to bridge that gap, by all means, that would be something we would certainly support."

Ms Churley: Do I have another minute?

The Vice-Chair: One short question.

Ms Churley: Most of the submissions we've received from several people have this same information, and I'm starting to get curious about it. It's the suggestion that Environment deal with the environmental aspects and SuperBuild deal with the finances of it. I'm not sure where that's coming from because, although SuperBuild is a fund right now, I get very alarmed, and I just want you to know that so far I don't support that suggestion. I just went through estimates, where we found out that SuperBuild had millions of dollars, and a whole bunch of it—I don't have the numbers in front of me—was never given to the municipalities and, as far as we can tell, it has been put back into general revenue; except, when I asked the Minister of the Environment about his input into this money going specifically to sewer and water projects—SuperBuild did that—he didn't know why the money was not spent, when we have all these needs out there. So I'm afraid I'm quite concerned about that recommendation, given what's happening to date.

I don't know if you have an answer to that. I'm just telling you my opinion from what I've seen so far. I would just like to know where that idea is coming from.

Mr Rodgers: I didn't present that idea and I don't have a particular opinion on that.

Ms Churley: I thought it was in your submission as well.

Mr Rodgers: No.

The Vice-Chair: Thank you very much, then. We appreciate your coming in today. Thanks for taking the time to come out.

RANKIN CONSTRUCTION INC

The Vice-Chair: Our next presenter is Rankin Construction Inc. Please introduce yourself. You have 15 minutes to use as you please. You can use the whole time or you can allow time for questions.

Mr Dave Pagnan: Good afternoon, Mr Chairman, and members of the committee. My name is Dave Pagnan. I am the chief estimator for Rankin Construction Inc. Today I am representing Rankin Construction. I am also the current president of the Ontario Sewer and Watermain Construction Association and past president of the Hamilton and District Sewer and Watermain Association. I am pleased to have this opportunity to present our views on Bill 175, the Sustainable Water and Sewage Systems Act.

Rankin Construction is a family-run company founded in 1978 by Mr Tom Rankin. Our annual volume is \$40 million to \$45 million per year, providing a wide spectrum of construction services. We have developed an expertise in highways, bridges, marine, environmental, industrial-commercial, and of course sewer and water main construction. Our projects take us throughout the entire province, but primarily we're based out of Niagara and the Hamilton region. Our client base is also wide-ranging, from numerous municipalities, provincial and

federal governments as well as the private sector such as Dofasco, Tim Hortons, Loblaws and Sobeys.

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Naturally, Rankin Construction is committed to the maintenance and expansion of the province's vast network of water and waste water systems. We are therefore supportive of Bill 175, because maintaining a plentiful and healthy water supply requires a continuous investment by government and consumers.

This legislation is an important step toward ensuring that Ontario's water and sewage systems are financially sustainable, good for public health and certainly environmentally friendly. Currently, we are faced with a critical need to invest in our water and sewage infrastructure. I have a few examples.

In the city of Hamilton, combined overflow sewage discharges directly into the Redhill Creek and Hamilton Harbour, especially during heavy rainfalls. Consequently, raw sewage can be seen floating around the harbour and parts of the valley on any given day.

This problem highlights the state of our deteriorating infrastructure, as well as past construction practices using combined sewers to minimize cost. While yearly budgets have included funds for sewer separation and massive combined sewer overflow tanks, it is painfully obvious that there is still a lot of work to be done. Currently, the city of Hamilton has approved a 12% increase in sewer and water rates for the year 2002 and has announced an accelerated budget that has been proposed for the next five years to address these concerns.

Another example in the region of Niagara is the township of Wainfleet, where the deteriorated infrastructure for 300 homes along the shoreline of Lake Erie is threatening the existing water supply. Recent studies just concluded that a large majority of these individual septic systems in the area filter directly out to Lake Ontario and surrounding lands. Given that the area is totally dependent on private wells, the township and the region have accelerated efforts to provide water and sewer systems to ensure safe, clean drinking water.

In the same region, a local newspaper reported that the city of Welland experiences 33% water loss in their 50-year-old water system. This loss of water has a fixed cost of \$1 million and the associated costs such as emergency repairs, erosion, sinkholes and associated road repairs are unknown.

Although yearly budget increases have been committed, the city finds itself flushing the water system 24 hours a day to maintain chlorine levels acceptable under the new regulation 459, another example of our old deteriorated systems not being able to meet today's standards, and a waste of valuable natural resources.

We have been a proponent for full cost pricing and accounting legislation for many years. We believe it is the only way to secure much-needed new, upgraded infrastructure and to protect public health and the environment. With this in mind, we commend the government for moving to implement this policy.

We are particularly pleased that there is a section in the legislation that requires municipalities to have dedicated reserve accounts. While we believe the bill has a good framework, history indicates that during the finalizing of municipal budgets, libraries, arenas and parks are visible improvements that the public appreciates while sewer and water infrastructure suffers because they are out of sight, which unfortunately renders them with less priority.

The tragedy in Walkerton and the examples provided above educated the public and municipalities about the consequences of years of neglect, and public opinion polls confirm they are prepared to pay more for safe, clean water.

I am aware that the Ontario Sewer and Watermain Construction Association has made suggestions for strengthening the bill. First, full cost pricing of the cost of supplying water and sewage systems should be legislated as mandatory for all municipalities and built into the water rates. Putting this principle in the legislation will signal the government's serious intent and, most important, it will ensure that full cost pricing becomes a reality in Ontario. While we agree with the concept that municipalities should be allowed flexibility in how they achieve this goal, we do not think there should be any flexibility about whether they implement full cost pricing. Second, legislation should adapt a specific date for compliance. We recommend that the government phase in the policy change over a five- to eight-year period. This will help municipalities manage the transition to full cost pricing and protect consumers from undue rate increases.

This time frame would also allow the industry to partner with the various suppliers and unions to ensure good quality workmanship and products in a timely fashion and as cost effectively as possible.

Third, we think the legislation should entrench the user-pay principle to prevent municipalities from being able to hide the costs of water service within the property tax. Only through a transparent user-pay method will conservation occur. As Justice O'Connor said, "Requiring people to pay the full cost of water they use ... gives them a better appreciation of the value of water, and encourages them to use it wisely."

Fourth, we believe the legislation could be improved with a more precise definition of "full cost pricing." This will ensure a level playing field for consumers, and municipalities will know what they are paying for and that the same costing methodologies will be in place across the province. Currently, the Ontario municipal benchmark initiative, an association of municipal and regional CAOs, is attempting to detail the accounting principles to be universally adapted.

Fifth, the legislation should be amended to include metering. Metering is the most effective way to ensure that each user's consumption is tracked and billed, allowing consumers to see exactly the amount of water they have used, the relation to the cost, and promote conservation, efficiency and environmental protection.

Hamilton has already moved to mandate full metering for all its residents.

If the legislation and the proposed amendments come into force, the government will need to ensure both environmental and financial compliance with the municipalities. This is a monumental task for one ministry alone to oversee. To address this, we agree with the suggestion that the best way to ensure that the legislation is implemented as intended is to amend the legislation to dictate which ministry is responsible for overseeing the environmental aspects of the bill and which is responsible for the financial aspects of the bill. The Ministry of the Environment should be responsible for environmental oversight, while the Ministry of Finance and SuperBuild should be given the financial oversight responsibility.

In conclusion, the attendance at these committee hearings by Ontario Sewer and Watermain Construction Association members, who have seen at first hand the condition of our aging sewer and water infrastructure, highlights our commitment to ensure these systems across the province are financially and environmentally sustainable. Much like the provincial debt, this problem has gone neglected over the years and must be addressed by legislation to ensure our future and our children's future in this great province.

Thank you for the opportunity to address the committee. I look forward to any questions.

The Chair: Thank you very much. That affords us two minutes per caucus for questions. We'll start with the government benches.

Mr Wayne Wettlaufer (Kitchener Centre): Thank you very much, Mr Pagnan, for coming in. This morning, Mr Bisson of the NDP suggested that this could be dealt with through taxation as opposed to metering, as opposed to user-pay. I'd like you to state again for the record, maybe for emphasis, what your position is.

Mr Pagnan: The association feels very strongly around the user-pay, based on the metering, in that it's going to promote conservation, and we're firm believers that you should only get what you pay for. People will appreciate it more and respect it more.

Mr Wettlaufer: Thank you.

The Chair: Any other quick questions?

Mr R. Gary Stewart (Peterborough): I'm not quite sure you can answer this, but we saw two samples of the build-up of sludge and everything else in these pipes over 30 or 40 years. Can they not be flushed out on a regular basis to get rid of most of that? It appears to me by the look of it, and I'm certainly no engineer, like it has been there for a lot of years. If it's done on a regular basis, can that help to cure it on new pipes—not on old, but on new ones?

Mr Pagnan: Yes. Most municipalities do have a regular maintenance program, and obviously it's almost like the investment in the infrastructure in that at times it gets neglected and ignored, and then you see those water main pipes that they were passing around.

Mr Stewart: So it's a lot of human error, or human lack of concern, but you can't get rid of that now.

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Mr Pagnan: In the city of Toronto—someone alluded to that earlier—there is a reaming-out process.

Mr Stewart: But that's the only way?

Mr Pagnan: Yes. You ream it all out and then you cement and mortar-line the inside again. But it doesn't give you the same life expectancy. It's just like a band-aid: 60% efficient, I think.

Mr Stewart: But new pipes going in now—

Mr Pagnan: They're plastic.

Mr Stewart: It doesn't build up as long as you do the maintenance on a regular basis?

Mr Pagnan: Correct.

Mr Stewart: OK, thank you.

Mr Bradley: I think everybody has stated in principle the validity of having full cost pricing. When I look at people on low and fixed incomes who are being hit with several increases at a time, it becomes quite onerous on those individuals—and that's not your problem to solve.

Let me ask you this question: you have described a deficit which I think most of us around here would agree exists in most municipalities in terms of the capital works, in other words, the great need for capital works, not only for new pipes, but also to replace those which are there, and sewage treatment plants and so on. Do you think it would be advantageous, at least at the beginning, before municipalities build up these funds, to have a special program financed by senior levels of government, perhaps through infrastructure and other mechanisms, to assist municipalities in addressing that deficit that exists now, and then allow the full cost of water to be paid in the future, for future works that have to be done and further repairs that have to be done?

Mr Pagnan: I definitely think there has to be a phase-in period. Some of the larger municipalities, like Hamilton, Halton and the region of Niagara, in short, have already headed toward a full cost pricing basis. But you're definitely going to need some capital input to some of the outlying areas and to the smaller municipalities that can't afford to replenish their systems at all.

Mr Bradley: There was a program once called LifeLines—it was brought in, and I hate to say this, in the late 1980s—which allowed the provincial government to pay a certain portion of the costs and the local government to pay a certain portion of the costs. It was exactly for replacing the pipes that we've seen before this committee. Do you think a program like that could be advantageous, at least, again, at the beginning, if not 10 years down the line, when we have full cost pricing?

Mr Pagnan: Yes. I think 10 years down the line everything will be fine. At the beginning, yes, you're going to need something to replace it. I know the federal government has an infrastructure program going at the same time. Federal, provincial and municipal all used to commit to certain levels of investment and then put out the projects based on that.

Mr Bradley: As one who voted for sewer projects all the time when I was on municipal council while others

were wanting fancy new buildings and so on, it's music to hear you talk about the need for those things which are underground. When you're Minister of the Environment, you get to cut the ribbon at sewage treatment plants, not new arenas or civic centres or things like that. Thank you very much, sir.

The Chair: Thank you, and I'm sure the statue has already been commissioned.

Ms Churley: Well, I bettered him on that. I just want you to know that when I became a city councillor here in Toronto, I suited up and went down in the sewers with some of the workers. I recommend that everybody do that. It's quite an eye opener when you get down there and see. It's amazing. Maybe the committee should do it. It's a recommendation.

Mr Bradley: I'm prepared to take your word for it, Marilyn.

Ms Churley: I've had a keen interest ever since, but not just in the pipes, and I appreciate that's where you're coming from. As you know, these two bills deal with a lot more. What either of them doesn't deal with is source protection. One of the amendments I will be making is that source protection costs be part of the full cost recovery, with the caveat—I agree with Mr Bradley on this—that there have to be infrastructure capital programs from both senior levels of government. Of course, to the extent that we can keep the water clean before it goes into the pipe, we're better off. Would you support having that as part of the full cost recovery?

Mr Pagnan: I think source protection actually will become part of 175—

Ms Churley: But it isn't in it now, as part of what full cost recovery would be used for.

Mr Pagnan: It's not?

Ms Churley: No.

Mr Pagnan: I'm a little confused, then. When you say source protection, do you mean like the lakes?

Ms Churley: Protecting the water at the source, the groundwater source, and keeping out the contaminants and pollutants and all of those things before it goes into the pipe; not dealing with pipes and pumps but with keeping it clean in the first place, that those costs should be part of full cost recovery.

Mr Pagnan: Oh, yes, I think they should be. The example I mentioned in Wainfleet, with the septic systems leaking out and with all the private wells around—

Ms Churley: Yes, it's critical.

Mr Pagnan: That's an example where replacing the sewer would enhance the source protection right away.

Ms Churley: How?

Mr Pagnan: There's no more sewage leaking into the ground that can contaminate wells. The sewers right now are leaking because they're deteriorated and they're on a septic system.

Ms Churley: That's one piece of it, but all the other kinds of source protection are not in this bill or the safe drinking water bill. It sounds like you would agree that we have to take those into the whole source protection aspect.

Mr Pagnan: Even in Hamilton, separating the sewers would eliminate going into the lake too.

Ms Churley: Yes, it would go a long way.

The Chair: Thank you very much for coming before us. We appreciate your comments.

COUNCIL OF ONTARIO CONSTRUCTION ASSOCIATIONS

The Chair: Our final presentation this afternoon will be from the Council of Ontario Construction Associations. Good afternoon. Welcome to the committee.

Mr David Frame: Good afternoon, Mr Chairman, members of the committee. Thank you for the invitation. My name is David Frame. I am president of the Council of Ontario Construction Associations.

I'll start with a little bit about our organization. We represent the ICI and engineering construction sector in Ontario and are pleased to have the opportunity to present our views on Bill 175. We've appeared before this committee in the past, but it might be helpful at this time to outline briefly who we are and the organizations we represent.

The Council of Ontario Construction Associations, COCA for short, is a federation of 41 associations representing employers in the industrial, commercial, institutional and heavy sectors of the construction industry. A list of our members is attached to this presentation. Our member associations in turn represent about 7,000 contractors from the familiar large companies that you see on almost a daily basis, like AECON, PCL, Ellis-Don, Eastern, Kenaidan, Black and McDonald, to the one- and two-person plumbing or painting companies that are active in your neighbourhoods.

Together with our colleagues in the home building industry, we represent the second-biggest industry in Ontario. Most people think of the automotive industry or tourism or agriculture when they're asked to name the largest industries, but in fact construction provides employment for well over 300,000 people, contributing greatly to the economy of Ontario. We are proud of the role our industry plays in Ontario. The men and women who work with us have an above-average wage that is among the highest of any sector in the province.

The construction industry has made significant gains in the quality of employment experience as well. For example, since accident statistics were first compiled by the Workers' Compensation Board in 1965, the frequency of workplace injuries resulting in lost-time work has declined by 339%. That's right: construction work is now four times safer than it once was, and our industry is determined to work even harder to make our safety performance the best in the world. This is also an indicator that the industry is evolving. Greater use of heavy equipment and technology means there's less of putting your back into it and more of getting your head into it.

Construction provides a fabulous opportunity for our young people to bring their technical skills to high-paying, rewarding jobs. The industry has an extensive network of training facilities, and we are usually challenged to fill vacancies that are needed for qualified workers.

The construction industry takes our mandate of building Ontario very seriously. We have been concerned for some time about the deterioration of our infrastructure. COCA is committed to the maintenance and expansion of the province's vast network of water and waste water systems. We are therefore very supportive of Bill 175, because maintaining a plentiful, healthy water supply requires a continuous investment by government and consumers.

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This legislation is an important step toward ensuring that Ontario's water and sewage systems are financially sustainable, good for public health and environmentally friendly. For many years, we have been faced with a critical need to invest in our water and sewage infrastructure.

COCA has long been on record in expressing our concern for the maintenance and expansion of the province's infrastructure. Many aspects of the industry we're talking about are hidden from view—water and waste water systems, for example—and tend to be forgotten by the public and the legislators. They're easy to take for granted or overlook, but they are vitally important to Ontario's economic well-being. And they are not in great shape, as the Provincial Auditor reminded us only a couple of years ago. There is a requirement for expenditure of many millions, indeed billions, of dollars, yet the deficit in infrastructure spending grows every year.

If you check our presentations to the finance and economic affairs committee over the past decade, you will find that we have said the same thing regularly: the time has come to recognize water as a very important resource that requires the same careful management as our other natural resources.

The reality is that Ontario's water resources actually represent a cost centre for most municipalities, because they bill their citizens far less than the actual cost of supplying fresh water. As a result, maintenance and expansion of filtration plants and water systems must be paid for out of the already strained municipal financial resources. It's no surprise that these needs have often taken a back seat to what have been more immediate municipal needs. A full cost recovery system will provide dedicated funds that will allow municipalities, over time, to bring their systems up to the required standard.

There is no reason why the principle of full cost recovery should not be implemented with regard to water systems in Ontario, with the provincial government setting the benchmarks. Water is a resource that's growing in value every day and simply must be husbanded properly.

We have been a proponent of full cost pricing and accounting legislation for many years. We believe it's the

only way to secure much-needed new, upgraded infrastructure and to protect public health and the environment. It is also a means to stabilize business cycles and planning for us and municipalities. With this in mind, we want to commend the government for moving to implement this policy.

We support Bill 175, and we are particularly pleased that there is a section in the legislation that requires municipalities to have dedicated reserve accounts. While we believe the bill is a good framework, it is our view that it must be strengthened if we are to achieve the goal of creating sustainable water and sewage systems. As the bill now stands, there is too much left to regulation and there are not enough provisions entrenched in the legislation.

I am aware that the Ontario Sewer and Watermain Construction Association has made suggestions for strengthening the bill. They were just explained to you by the speaker immediately preceding me, so as to not bore you, I will not go through those again other than to say that we support them, with the major theme being the importance of incorporating full cost pricing into this legislation.

I'll move over to page 7, halfway down. If this legislation and the proposed amendments come into force, the government will need to ensure both environmental and financial compliance by municipalities. This may be a monumental task for one ministry alone to oversee. To address this, we agree with the suggestion that the best way to ensure that the legislation is implemented as intended is to amend the legislation to dictate which ministry is responsible for overseeing the environmental aspects of the bill and which is responsible for the financial aspects of the bill. Obviously, the Ministry of the Environment should have responsibility for the environmental oversight, while the Ministry of Finance and, in this case, the SuperBuild programs there right now, would have the responsibility for the financial oversight.

Again, thank you for the opportunity to address the committee. I look forward to your questions.

The Chair: Since you are our last speaker, I'll be a little more generous and offer a minute and a half for each caucus.

Mr Bradley: I want to first of all commend the Ontario Sewer and Watermain Construction Association for ensuring that the position of the construction industry is well represented before the committee. Its chief lobbyist should get an increase in pay for this, I think. What you've had to say on it has been very instructive. I think you have brought to our attention again, and maybe to the public's attention through this committee, the genuine need that's out there.

I guess the areas where we have some concern—for me, I represent a major urban city, so it's not as great. But how do you see this playing out in very small municipalities and hamlets? There have been problems, which have been talked about—Wainfleet was one—where there's a genuine threat to the water supply

because of existing septic tanks and so on. How do you see those municipalities, hamlets or villages fitting into this in terms of the financing?

Mr Frame: It's clearly a problem that's not going to be solved quickly. Some of the larger communities, as was mentioned, are already on their way to be able to do this. They have a few more resources to be able to get there. Smaller communities, obviously, are going to need more time to get there. It's our understanding that AMO is already stepping forward to work with them and is coming forward with ideas on how that might happen. Time is the real answer. We've mentioned the Ministry of Finance playing a role with the current SuperBuild program. Likely, incentives would also be needed to help them get there.

Ms Churley: Thank you for your statement that you wouldn't bore us with the recommendations we've heard many times before. I appreciate that, so I won't bore you with my standard response to those. I think you heard me express my concerns about some of the recommendations we need to be looking at.

So I'm just going to ask you—we've spent a lot of time talking about the pipes and pumps, which are very important, but as you know, I have a keen interest in the Safe Drinking Water Act because I first came forward with one, and we're not talking about that very much. I recognize that this is your particular interest and why you addressed it, but I wonder if you have any thoughts or comments on it. I'm desperate for somebody else to talk about the Safe Drinking Water Act. If you have had a chance to look at it, I wonder what your views on that might be, in the 50 seconds left.

Mr Frame: As the previous speaker indicated, the treatment side and the water purification side are connected with each other, obviously. If less polluted water is leaking into our groundwater system, that's going to be less of a problem for contamination of the water table—

Ms Churley: I interrupted only because the government's Safe Drinking Water Act doesn't deal with source protection either. We don't have time to discuss it, but I believe, as did Justice O'Connor, that source protection is a critical piece; that we can do all these things, but without the linchpin of protecting the water at its source, another Walkerton can still happen. I'm not diminishing the importance of the issues you're talking about—they're very important—but I don't want us to forget about some pieces that are missing from these two bills.

Mr Frame: This legislation is one important and vital piece to addressing the whole problem. Obviously, it isn't 100% of it.

Ms Churley: I appreciate it. Thank you.

The Chair: Anything from the government?

Mr Miller: We're moving to full cost pricing. I'd like to get an idea: how much are we underbidding the amount people pay for water and sewer right now for the average household?

Mr Frame: I don't have a number on that and I don't know how recent the survey is. Some are paying full

cost, but obviously a lot of them aren't. I simply don't have that number right now and I don't know if it has been produced.

Mr Miller: Any idea of what the whole infrastructure deficit might be? Is there a value for that?

Mr Frame: I don't have that number, no.

Mr Miller: OK. It seems to me that for this to be manageable for people, especially those on fixed incomes, municipalities should be phasing in increases. You're talking about five to eight years to have full cost pricing fully implemented. I would think municipalities should be starting right now to increase water and sewer bills 5% or 6% so it's going to be more manageable for people.

Mr Frame: Obviously, some can get there a lot faster than that. Some are going to require something in that neighbourhood to get there.

The Chair: Thank you very much. We appreciate your coming before the committee this afternoon.

Ms Churley: I just have a quick question to ask of you, Chair, before we break. Don't bang that gavel.

The Chair: OK, go ahead.

Ms Churley: I just wanted to ask if we could have some information from perhaps the minister or ministry staff as to their intentions on a capital fund or infrastructure fund. I believe it's probably likely, based on what the member for Bruce-Grey-Owen Sound said yesterday, that negotiations are going on with AMO around that. I think it would be useful for me to have that. I don't even need a dollar figure at this point. I keep asking this question and bringing it up. We don't know what model we're talking about here and I have a lot of concerns about it. Could we get some information as to what the intention of the government is to deal with the capital costs of infrastructure?

The Chair: Thank you for the question. I know ministry staff are in attendance taking notes and I'm sure, if that information is something they are in a position to divulge, they will send it to the clerk, and I'll make sure it's circulated to all the members of the committee if such an answer is received.

In the absence of any other questions, comments or suggestions, this committee stands adjourned until 10:30 tomorrow in Ottawa.

The committee adjourned at 1651.

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Official Report of Debates (Hansard)

Friday 22 November 2002

Journal des débats (Hansard)

Vendredi 22 novembre 2002

Standing committee on general government

Sustainable Water and
Sewage Systems Act, 2002

Safe Drinking Water Act, 2002

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STANDING COMMITTEE ON
GENERAL GOVERNMENTCOMITÉ PERMANENT DES
AFFAIRES GOUVERNEMENTALES

Friday 22 November 2002

Vendredi 22 novembre 2002

The committee met at 1029 in the Westin Hotel, Ottawa.

SUSTAINABLE WATER AND
SEWAGE SYSTEMS ACT, 2002LOI DE 2002 SUR LA DURABILITÉ
DES RÉSEAUX D'EAU ET D'ÉGOUTS

SAFE DRINKING WATER ACT, 2002

LOI DE 2002 SUR LA SALUBRITÉ
DE L'EAU POTABLE

Consideration of the following bills:

Bill 175, An Act respecting the cost of water and waste water services / Projet de loi 175, Loi concernant le coût des services d'approvisionnement en eau et des services relatifs aux eaux usées;

Bill 195, An Act respecting safe drinking water / Projet de loi 195, Loi ayant trait à la salubrité de l'eau potable.

The Vice-Chair (Mr Norm Miller): I'd like to call to order this meeting of the standing committee on general government on the hearings into Bill 175 and Bill 195.

TAGGART CONSTRUCTION

The Vice-Chair: The first presenter here this morning is Taggart Construction Ltd. If you can introduce yourself, please, you have 15 minutes to use as you please. You can use the whole time on your presentation or you can leave time for questions and comments.

Mr Doug Haight: Good morning, Mr Chairman and members of the committee. My name is Doug Haight and I am the Kingston construction manager for Taggart Construction. Our company represents approximately 250 employees and we are pleased to have this opportunity to present our views on Bill 175, the Sustainable Water and Sewage Systems Act.

Taggart Construction is a family-owned business that has been in operation since 1948, with water and sewer construction being the core line of our business. Our firm also carries on business in land development, general contracting and house building. As you can see, all these lines lend themselves to good knowledge of water and sewage systems.

Naturally, our company is committed to the maintenance and expansion of the province's vast network of water and waste water systems. We are, therefore, supportive of Bill 175, because maintaining a plentiful, healthy water supply requires ongoing investment by government and consumers.

Bill 175 is important to ensure that the water and sewage systems of Ontario are good for public health, financially sustainable and environmentally friendly. The situation throughout the province today is one of critical need of investment in our water and sewage infrastructure.

In our day-to-day experience in water and sewer construction we see many examples of existing infrastructure in need of replacement or repair. Many of the reconstruction projects we have been involved in still employ the use of combined sewer overflows. This causes periodic discharge of raw sewage into our waterways. Aging sewer systems allow large quantities of groundwater to infiltrate into the system which must then be treated at a considerable cost to the municipalities. This situation is much more prevalent in older cities such as Kingston and Ottawa.

Large projects are in many cases put off the longest due to financial constraints. Such a project in our area is the Rideau River crossing in Kingston, which has involvement with both trunk sewer and water and water main crossing the river. The existing pipes are over 50 years old and are well beyond their sustainable lifetime. In addition to being beyond their lifespan, they are the single crossing of the river for a very large percentage of the sewage from the core city heading for the treatment plant on the east side of the river. Obviously, any disruption of service in this force main would have a huge environmental impact due to spillages and overflows into the Rideau River.

We have supported full cost pricing and accounting legislation for many years with the belief that it is the only sure method to achieve the needed upgrades in infrastructure that will protect public health and the environment. Having the means in place to fund upgrades when needed rather than when they can be afforded would greatly increase stability of business cycles and planning for both ourselves and the municipalities.

The legislation as it stands requires municipalities to have dedicated reserve accounts, which we fully support. We believe the bill is a good framework, yet it needs to be strengthened to ensure that in the end a sustainable

water and sewage system is reached. As the bill now stands, regulation plays too large a role and too few provisions are addressed in the legislation.

I am aware that the Ontario Sewer and Watermain Construction Association have made suggestions to strengthen the bill, and I can tell you we are in full support of these changes.

I won't run through the amendments. I understand that they have been voiced at previous presentations. If the legislation and proposed amendments come into force, the government will need to ensure both environmental and financial compliance by municipalities. We agree with the suggestion that the best way to ensure the legislation goes forward as intended is to amend the legislation to specify which ministry is responsible for the environmental aspects of the bill and which is responsible for the financial. The Ministry of the Environment should lead the environmental oversight while the Ministry of Finance/SuperBuild leads in the financial aspects.

I would like to thank you for the opportunity to address the committee and I will address any questions at this time.

The Chair: That allows a couple of minutes per caucus. We'll start with the official opposition.

Mr Richard Patten (Ottawa Centre): First of all, thank you for being with us today. I know of your company and some of the family members. I know you do a lot of very good work.

If I could ask you to elaborate on one point on which I think we agree, but perhaps you're in a better position to give us more specifics. That's the situation in Ottawa and Kingston in particular, in terms of the age of the infrastructure. What is the scope or the dimension we're talking about in both, not in specific dollars, but do you have a sense of a very large challenge fiscally?

Mr Haight: I agree the challenge is great. I'm actually involved on a number of committees in our area that I operate out of in Kingston, which would be similar to Ottawa due to the age of the cities.

Right now, they're just trying to get a handle on what the backlog is. Even those very much in the know are not able to get a dollar figure on this to date. We know it's large, we know it's beyond what the present funding situation can handle, but to give you a dollar figure I would be just guessing.

Mr Patten: The other comment I have is, as you've pointed out, the association has already identified a number of areas that are not in the bill but would be left simply to government regulation. When you see that in a bill, it usually means, "Those are the areas on which we really don't want to have debate and discussion. We'll do these things behind closed doors." I think you're pushing for us to be clear about all of this: let's make sure who's paying what. We know in some cases, some municipalities are probably not going to be able to handle the scope of what they have. They'll need some support from the provincial government, or they're going to have to raise taxes considerably, perhaps beyond the reality of

what their constituents might be able to support. I just want to make that comment that I think we agree with you that more of that should be in the bill, and we certainly will be putting forward amendments to that effect. Whether the government side will accept these or not remains to be seen.

Ms Marilyn Churley (Toronto-Danforth): I just wanted to follow up as well on full cost recovery and what that means to you. We've had many presentations in support of that aspect; in fact, it seems that it's one area where most people are on side. But we haven't really defined what it means in terms of what the government role is, the provincial government and I would say the federal government as well, in terms of the high infrastructure cost, the capital cost to bring systems up to standard, which is what you're talking about. So when we talk about full cost recovery, what I envision, and it's not clear in this bill, and we do have to find a model, is that both senior levels of government should come in with infrastructure capital funding to help municipalities which still should be metering and paying their share. In fact, I do think we should be paying for water, so we conserve it and understand how important it is to us. On the other hand, we have to make sure that poor people and smaller municipalities can afford it. I'm wondering what you think about the involvement of other levels of government, particularly in the capital funding?

1040

Mr Haight: We are of the belief that a transition period, a phasing-in period, is required, because the financial strains would be too great to make an immediate transition. Definitely, during that period of time, there is going to be a requirement from many municipalities for funding from all levels of government to make the transition. In the end, I'm sure there will be a few of the smaller municipalities that may never be able to fully make the transition to the new cost recovery system and there may have to be ongoing financial input from the various levels of government to assist them.

Ms Churley: Thank you very much.

Mr Garry J. Guzzo (Ottawa West-Nepean): Thank you for being here, Mr Haight, and welcome to Ottawa.

I'd like to refer to your written submission—page 2, the second paragraph; your comments with regard to combined sewer overflows. This is a problem in the downtown areas in older cities, where we've been facing massive costs to separate the sewers. Indeed, as a member of city council and regional council in the early 1970s, I remember passing a bylaw, which, Mr Chiarelli tells me, now has the sewer separation program virtually completed in Ottawa, which is an exaggeration, or you people would be on easy street and in retirement. I'd like you to explain and put on the record what happens in this overflow situation, how the raw sewage actually flows from the waste sewer into the main sewer.

Mr Haight: I can definitely speak from previous knowledge in the Kingston area, and I'm sure there are many similar situations here in Ottawa. In normal, everyday operation, the existing sanitary sewers are

typically picking up the sanitary flow. But being a combined sewer, all the storm water from that area is also captured by those combined sewers. During periods of heavy flow because of storm situations, the combined sewer obviously is running to overcapacity, and once it makes the transition into the trunk sanitary mains, they're not able to carry all the flow. So usually at certain interceptor points throughout the city, there is a cross-over, a cross link between the combined sewer. In day-to-day operation, it dumps 100% into the sanitary system and it's treated. During high flows it is, as the word portrays, a straight overflow and a straight discharge into a local waterway.

Mr Guzzo: Let me make it clear that despite 30 years of having them in place, we have not completed the combined sewer program—I think we're about 65%. The reason for that, of course, was the imposition of regional government, where the city of Ottawa had to finance the sewers to Kanata and the other outlying satellite cities, and that took priority over fixing this very serious problem. Let the record be clear on that. It's a serious problem and one that has to be expedited.

The Vice-Chair: Thank you, Mr Haight, for coming before us today. We appreciate it. I would also like to welcome the Minister of the Environment, Mr Chris Stockwell, who has joined us today in Ottawa.

NATIONAL CAPITAL HEAVY CONSTRUCTION ASSOCIATION

The Vice-Chair: I'd like to call our next presenter, the National Capital Heavy Construction Association. Welcome. You have 15 minutes to use as you please. You can present for the whole time or allow time for questions. Please introduce yourself.

Mr Jeff Mulcock: Good morning, Mr Chairman and members of the committee. My name is Jeff Mulcock, and I'm representing the National Capital Heavy Construction Association. I am currently a director and the past president of this association. I am very happy to be here and to have this opportunity to talk to you about Bill 175.

I'm also an individual who has a wife and children—very healthy children, and I'd like to keep them that way.

Our association represents approximately 215 contractors and associate members doing business within the national capital region. The objectives of our association are as follows: the betterment of the road-building, aggregate sewer and water main construction industries within the greater Ottawa area; maintaining the highest standards of construction and business methods; and promoting better understanding and goodwill between the public, owners, engineers and contractors. It is with these objectives in mind that we are here to support Bill 175.

Bill 175 is a method of commitment that ensures the municipalities of Ontario have the financial ability to supply and maintain a healthy and environmentally sound clean water supply and sewage disposal system for the

people of this province. As of now, the money to make this happen has not been there. It's time to start investing in Ontario's sewer and water infrastructure.

I have a picture—Tonia, did you distribute that picture? Has everybody had a good look at that? Isn't it ironic that everybody here is drinking bottled water? If we had jugs of water, it would probably have been distributed to this hotel through a pipe like that. That's a piece of a 36-inch water main that was taken out of the system about four years ago—the build-up inside. I do believe there still is some of that water main in existence here in Ottawa. It's a scary thought.

Our association believes that the full cost pricing and accounting legislation in Bill 175 will give municipalities the ability to upgrade and maintain their infrastructure so tragedies like Walkerton will be read about in history books and not in the daily newspapers.

We are very pleased to see that Bill 175 has a section that requires municipalities to have dedicated reserve accounts. I think they have been working and have introduced dedicated accounts on their water and sewage systems here in the city of Ottawa.

We feel that Bill 175 has a good foundation to work with, and the amendments to the bill that the Ontario Sewer and Watermain Construction Association have suggested could be one of this government's legacies to be proud of and for all Canada to follow.

The following suggested amendments would definitely strengthen this bill. I know everybody has heard about these amendments, but I think they are very important to entrench in this legislation.

First, full cost pricing should be mandatory for all municipalities. How municipalities implement full cost pricing is totally up to them; whether they implement full cost pricing should not be an option. This amendment will show the municipalities that this government is committed to the health and well-being of the people of Ontario and that full cost pricing will be a reality.

The second and third amendments should be the application of the user-pay principle and monitoring the amount used by metering. The user-pay principle will stop municipalities from adding the costs of water supply to property taxes, and the metering will show the end-user the actual amount of water consumed, which will eventually promote conservation. I know that here in Ottawa we have meters, and I'm watching my water taps all the time.

The fourth amendment should be to have a more defined definition of full cost pricing. This will give end-users a better understanding of what they are actually paying for. Also, the municipalities across the province will be able to have a more unified accounting of costs to determine the actual price to supply the water to the end-user.

The fifth and last suggested amendment is that this legislation should be phased in over a five- to eight-year period. This phase-in period will help municipalities manage the transition to full cost pricing and help protect consumers from steep rate hikes.

1050

If this legislation, with the proposed amendments, becomes reality, the government of Ontario will have a huge undertaking, which I know they will achieve.

To ensure this legislation is implemented as intended the bill should be amended to dictate which ministry is responsible for overseeing the environmental and the financial aspects of the bill. It has been suggested that the Ministry of the Environment should be responsible for the environmental applications while the Ministry of Finance should be given the financial responsibility. We agree with this suggestion.

The time has come for this piece of legislation and we want to applaud the government for moving to implement this policy. I'd like to thank you for this time to speak to you about this matter and I would be happy answer any questions you have.

The Vice-Chair: Thank you very much. That allows a couple minutes per caucus for questions. We'll start with the third party.

Ms Churley: I want to ask you the same question—you were in the room I think when I asked it—and that is trying to get a better definition of what we mean by full cost recovery. Of course we're going into this, as you pointed out, with an infrastructure deficit, a huge one, as demonstrated by this and many other problems. Given that we're going to be asking in my city and probably here too—people already pay water bills. Going into it with a big deficit, what would you propose? How would you propose that senior governments be involved in the process of dealing with that infrastructure deficit so it doesn't all fall on the shoulders of municipalities?

Mr Mulcock: Definitely, municipalities are going to need support from the provincial and federal governments. There's no way the municipalities can do it all themselves. There are programs in place right now that support the infrastructure programs, and the municipalities are going to need that support all the time. It is going to be a huge undertaking, as I said. It's going to take years to develop. I'm sure it can happen and I hope it will happen.

Ms Churley: Are you aware here in Ottawa if there are any water conservation programs in place by the municipality? For instance, in order to get new money to do upgrades, is there any kind of conservation built into the plan before they can get the money?

Mr Mulcock: I'm not quite sure I understand. Are there any programs in place right now?

Ms Churley: Yes.

Mr Mulcock: I'm not sure about that. I just bought a new house. I don't know if it's law or legislation that new house buildings have low-flow valves and conservation methods in these new houses. I don't know if there's a program actually to promote this.

The Vice-Chair: The government side?

Hon Chris Stockwell (Minister of the Environment, Government House Leader): I appreciate your deputiation. I'm kind of wondering about the full cost recovery

arguments; you're the second. Page 3 of the bill, 4(1), (2), (3) and (4), specifically lay out:

"(1) Every regulated entity that provides waste water services to the public shall give a written report about those services to the minister before the date specified by regulation."

"(2) The report must contain such information as is required by regulation concerning the infrastructure needed to provide the waste water services, the full cost of providing the services and the revenue obtained to provide them and concerning such other matters as may be specified in the regulation."

"(3) The report must be made in a form approved by the minister."

"(4) The full cost of providing the waste water services includes the operating costs, financing costs, renewal and replacement costs and improvement costs associated with collecting, treating or discharging waste water and such other costs as many be specified by the regulation."

That's ambiguous to you? It's not clear?

Mr Mulcock: Everybody's definition of "full cost pricing" is different. We feel there should be a defined definition of exactly what full cost pricing is.

Hon Mr Stockwell: When I speak to people and give them my definition, it seems to be a definition shared by many. If you have it that the cost of providing drinking water and servicing your waste water must be fully cost-recoverable, fully paid for within a separate water account within municipalities, do you have a different definition than that?

Mr Mulcock: No, it's a good definition, but it's a broad definition. There are ways to narrow everybody's understanding of what full cost pricing is, and that's all we're suggesting. You said it within one sentence or two sentences. There are many ways of hiding costs of supplying water and sewers to people. We just want to make sure it's defined.

Hon Mr Stockwell: Exactly. To close, that's exactly why we said you have to introduce the plan.

Mr Mulcock: Sorry?

Hon Mr Stockwell: That's why we said in the report that you have to introduce the plan. We're not going to allow municipalities to subvert the legislation through any other process. They must submit a plan, and that plan must be financially viable, signed off by their auditor-accountant. Engineers: signed off on the engineering side. If I tried to legislate that, every single possible nuance and change and administrative and accounting jiggery-pokery in legislation, this legislation would be this big and it would take about two and a half years to write.

Mr Mulcock: I understand. Everybody's thoughts about full cost pricing—there could be better ideas in other municipalities. My understanding, my feeling is that we should make the best practices, take these people's ideas and these people's ideas and put them into one. Let's have a great concept of what full cost pricing actually is.

Hon Mr Stockwell: That's why I have the report—

Mr Mulcock: Yes, but they're all different municipalities. I think we should put it into one and all be working on the same page.

Hon Mr Stockwell: OK.

The Vice-Chair: The official opposition: Mr Conway, would you like to ask a question? No? Very good. Thank you very much, Mr Mulcock, for coming before us today.

POLLUTION PROBE

The Vice-Chair: Our next presenter is from Pollution Probe, Ottawa. You have 15 minutes to use as you please. You can use the entire time for your presentation or you may allow time for questions.

Mr Rick Findlay: Good morning everyone. My name is Rick Findlay and I am director of the water program at Pollution Probe. Pollution Probe, as you may know, is a non-profit charitable organization that works with all sectors of society to protect health by promoting clean air and clean water. I'm pleased to have this opportunity to present our views on Bill 175, and in particular we're very happy to see you here in Ottawa.

Pollution Probe believes that the reliance of a community on its water and waste water services is absolute. Adequate supplies of clean water and an effective and efficient water and waste water treatment system and distribution network are critical to the health, security and prosperity of a community, large or small.

Maintaining a plentiful, healthy water supply and waste water system requires a long-term, sustainable continuous investment by consumers and governments, based on the principle of full cost accounting.

Pollution Probe supports Bill 175 because we believe it is an important step towards ensuring that Ontario's water and sewage systems are financially sustainable and good for public health. Commissioned by the Walkerton inquiry, Pollution Probe prepared a paper in 2001 entitled *The Management and Financing of Drinking Water Systems*. I would like to present a few key points based on that paper.

First, we must pay the full cost of providing safe drinking water and managing our water assets on a sustainable basis. When we did our research, we found that our water is cheap compared to all other countries of the world. It is becoming increasingly difficult for water system managers to provide safe drinking water to consumers in the face of pressures to maintain and operate a deteriorating infrastructure while responding to expansion demands for water, and being faced with unstable subsidy and funding programs.

Second, new legislation is needed to ensure sustainable asset management and it must adhere to the principle of full cost accounting. There are severe pressures on new and existing infrastructure. Application of the full cost accounting principle should lead to more rational assessment and informed decision-making about the need for new or expanded infrastructure.

Pollution Probe proposes a new approach called sustainable asset management: a model for the management and financing of water systems that makes sense for the long haul. Sustainable asset management is a conceptual model that provides a more systematic, long-term, anticipative and transparent approach to planning and decision-making.

Water and the extensive infrastructure required for its collection, distribution and treatment are assets that need to be managed in a manner that protects their value to society. The concept of sustainability and the principle of full cost accounting together with a long-term, life-cycle approach to protection of these assets, for example, over a 100-year time frame, will be needed in order to meet the needs of future generations. The sustainable asset management plan walks through an evaluation of the full life-cycle of a water system by asking six basic questions: What do we have? What is it worth? What condition is it in? What do we need to do to it? When do we have to do it? How much will it cost?

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Third, we believe that source water itself is an asset that needs to be part of this long-term approach to asset management. Managing water systems for the long haul has requirements and implications that extend beyond the planning, inventory and analysis of the physical and financial capabilities of the facilities and institutions responsible for delivering those water services. The source water itself is an asset that has value and needs to be included in the basic inventory of infrastructure assets. An assured supply of clean water is a fundamental prerequisite, and in the long-term planning of a system, consideration must be given to the conservation and protection of the water resource upon which the system is based.

Finally, the consumer has an important role, and legislation should ensure it. Implementing a sustainable asset management approach should be transparent and should ensure convenient access to consistent, accurate information on the state of a consumer's drinking water and the state and the sustainability of the assets that produced it. Consumers should be aware of their role in the drinking water process and, ideally, should be involved at all stages. This is consistent with the provisions in other jurisdictions including the United States, Europe and Australia.

I have examined Bill 175 from these points of view, as expressed in our submission to the Walkerton inquiry. I have concluded that Bill 175 can do the right thing to ensure long-term sustainable management of our water and waste water assets here in Ontario, but it may not. While I am supportive of Bill 175, I am concerned that the legislation is largely enabling, that it leaves a lot to regulation. I would be happier to see more requirements entrenched in the legislation, and fewer provisions left to regulations. I would prefer to see more specificity and guidance to waste water and water system managers, so that a consistent, open, fair and transparent asset management system emerges and is implemented.

I also wanted to note that, on the subject of Bill 195, we have commented on this in the past with that bill as well. We have concerns that many of the provisions are enabling and do not ensure implementation of some important provisions.

I thank you again for the opportunity to address this and welcome any questions.

The Vice-Chair: Thank you very much. That allows time for two and a half minutes per caucus. I will start with the official opposition.

Mr Sean G. Conway (Renfrew-Nipissing-Pembroke): Thank you, Mr Findlay, for a quite a good submission. I really just have one question. Unfortunately, it deals with a kind of messy detail. At least three of us, as I look around the room this morning, represent, sort of, rural, small-town Ontario. I represent a big slice of the Ottawa Valley west of here, and I must say, I can't take issue with anything you've said here, at the conceptual level. It's good, and I think you're right.

My difficulty is simply this: in communities like Cobden, Chalk River, Calabogie, Barry's Bay, and Eganville—and my friends from Grey and Simcoe can probably do the same—I think to myself, “How am I going to do this?” Because I want to do this, but I have to get somebody, locally, to pay for these good intentions.

I am told by the latest Statistics Canada report, I think, 80% of Ontarians live in cities of not less than 50,000—I know I live in the city of Pembroke, population 15,000. So once I get up around 15,000 and, certainly, up around 50,000 and 100,000, I've got a critical mass that allows me to do and pay for things that I really want to do.

My question is simply this: in small-town, rural-village Ontario, what practical advice do you have for Her Majesty's provincial government as to how we can do these good things; invite, as we will, local participation on a financial level, but make the latter bearable and palatable?

Mr Findlay: I appreciate the point. First of all, you'll notice that I used the words “full cost accounting” primarily in my remarks. That is because the first step that you need to take is to use a consistent set of accounting principles to understand what you have and what it really does cost you.

The second point of what you charge for the water is another question, and that's the pricing question. Ideally, all communities, everywhere, should pay the full cost of their water, but as you say, quite rightly, small communities are particularly pressured. That becomes, then, a policy decision; that becomes a question that then has to be dealt with when providing infrastructure funding grants by either federal or provincial governments. I think it should be a requirement that infrastructure funding should only be allocated on the basis of whether or not there is an asset management plan that is sustainable, and money shouldn't be provided if it isn't. It may well require that there will be a top-up requirement to make sure that small communities still are able to provide the kind of clean water everyone expects should come out of a drinking water tap.

Ms Churley: Thank you for your presentation. I'm really glad that you at least referred to the Safe Drinking Water Act, because we're not having a lot of submissions on it. I recognize that you did. I read your submission and it's quite good.

Because you dealt mostly with the other bill, I want to come back to the subject of full cost recovery because it is a great concern when we throw the phrase around. I'm glad that you did say “full price accounting,” because I can guarantee you it's going to be a major problem across the province if we take the position that municipalities have to find a way to cover it, even the medium-sized ones. Even Justice O'Connor said in part two of his report, when he doesn't define what model to use, that senior levels of government have to help out. He indeed mentioned as well that the downloading to municipalities from the government, especially around social services, has become more and more of a problem for those municipalities and the government should review that. He recommended it even though he said it's outside his jurisdiction.

This is a real problem that we've got: to define what we mean by this. We're starting off with an infrastructure deficit, kind of like—if I can allude to it—the hydro situation. People should be paying at cost for water as they should for power, but to have to deal with that incredible infrastructure deficit would be impossible for most municipalities, so we have to come up with a model. Would you support that? The federal and provincial level of government need to be involved in providing capital funding.

Mr Findlay: I agree, conditional on having an accurate and openly understood asset management plan for the long haul, for the 100-year kind of time frame, that allows you to really understand what you have and what you need to have to manage that system for the long haul. Yes, I think the federal and provincial governments have a very serious responsibility for funding those systems.

Ms Churley: People have pointed out that, in fact, neither of those bills before us today is dealing with source protection. The governments say they'll come in later with that. Would you support having source protection as part of the full cost recovery as well? Because that's not included at the moment.

Mr Findlay: I'm encouraging people to think about that idea, yes. I would love to see a connection in this bill with the concept of source protection and the realization that source water is important to protect. If you mess up your source water, you're going to have to pay more to clean it up.

Ms Churley: Yes.

Mr Findlay: It's part of the equation. It's a concept that I haven't really heard much about and I'd like to bring the two together.

Ms Churley: OK. Thank you very much.

Mr Bill Murdoch (Bruce-Grey-Owen Sound): Thank you for your comments. I, too, sometimes have concerns about bills where everything isn't there and we have to rely on regulations. That seems to be a common

thing that happens at Queen's Park, not with our government but with all governments. They like to put bills through and then we've got to worry about the regulations later. It just seems like that's what's been done in the past and right now too, so I have concerns.

I was going to mention to you that I do sit on a committee that's going over the regulations with AMO on 195. It's working quite well and I think we're going to come up with some good solutions there. Also in that committee it was decided that after this we'll go right into looking at the costs because, just like Sean said over there, there are a lot of little, small municipalities that just won't be able to do the new regulations. There's just no way. That's what's going to happen, and I'm quite sure we'll have to come up with some money at the provincial level. Hopefully the feds will help us out. That's what's going to have to happen, no doubt.

Mr Findlay: I would have to agree.

The Vice-Chair: Any other questions?

Mr Garfield Dunlop (Simcoe North): I just have a quick question. Thank you for your presentation this morning. I'm curious, with Pollution Probe—and I'm pleased to see you here this morning—in your investigations or data that you've compiled, are you aware of any other jurisdiction that is trying to do with their piece of legislation what we're doing with this? I'm surprised no one has brought up any other jurisdictions in any of our hearings yet, and I'm curious what may be happening in other areas.

1110

Mr Findlay: Yes, actually we did quite a lot of work on that. I've brought along a copy of the report that did look at this experience in a number of other countries. We included it in our Walkerton report, by the way. The report is called *The Management and Financing of Drinking Water Systems*. We looked at a number of jurisdictions. There are examples all over the world of systems that are well run on a long-term, sustainable basis. It's not really rocket science. It's just good management and accounting principles that one needs to follow. There are lots of clever examples. Right here at home we looked carefully at the situation in Hamilton, Ontario, and did a long-term, sustainable asset management plan, working with the Hamilton people and with R. V. Anderson Associates, and came up with an assessment of what that system would need to be sustainable over the long haul. So it's all here. You're welcome to see that information.

The Vice-Chair: Thank you very much, Mr Findlay, for coming before us today. We appreciate it.

DIXON WEIR

The Vice-Chair: Our next presenter is from the city of Ottawa. Welcome to the committee. You have 15 minutes to use as please; you can use it for your presentation or allow time for questions. Please state your name for Hansard.

Mr Dixon Weir: Good morning, Minister and members of the committee. My name is Dixon Weir. Je suis le gestionnaire du service de l'eau potable. I represent the Ottawa staff who manage water treatment and distribution systems for the city. I would like to point out that the views presented today at this session are those of city staff. These positions will be submitted to the city's environmental services committee for their review and comment and, with their approval, go before city council on November 28. It is our intent to submit a formal city of Ottawa position on these two acts prior to the December 2 deadline. We've also distributed to you, I believe, in French and English, short-form points that I'll be raising in greater detail in the presentation.

Just to set the present setting in the city of Ottawa, we've been providing water service to our customers since 1874, when the Fleet Street pumping station was initially constructed. Since that beginning, the system has gone through a series of changes, some brought on by a greater knowledge of and the need for public health protection and others brought on by the city's growth. Today, the city of Ottawa provides potable water for drinking and fire protection to over 750,000 customers.

The surface water system, referred to as our central system, draws over 340 million litres of water on an average day from the Ottawa River, treats it and distributes it over a geographic area approximately 50 kilometres from east to west and 25 kilometres from north to south. Beyond our central system, we provide water service to rural customers in Vars, Carp, Munster hamlet and a portion of Richmond through small, groundwater-based communal systems. As I say, all of these are groundwater-based. We also provide assistance and support to microsystems, if you will, through individual facilities located throughout that region. The city of Ottawa staff believe that the experience gained in operating large and small, surface and groundwater-based water supply systems provides us with a unique perspective in commenting on these new acts.

The events of Walkerton have reminded us of the importance of and interrelationship between drinking water quality and community health and prosperity. The province has, appropriately so, taken the time to reassess and improve upon the regulatory framework upon which this service depends. The new Safe Drinking Water Act and the Sustainable Water and Sewage Systems Act are two such commendable efforts. Both will contribute to an overall improvement to the service we deliver.

However, there are a number of issues and inquiry recommendations that these acts and others introduced to date do not address. Many of these involve extremely complex and difficult issues to resolve, most importantly source water protection. While we understand and appreciate the difficulty that these issues present, many of which may be beyond the ability of the province to resolve on its own due to international or interprovincial jurisdictions, we encourage the province to determine a path forward to resolving these issues, a sort of blueprint for change, if you will. This could help municipalities

understand how the province intends to deal with these as of yet unaddressed issues.

The drinking water service that we provide is to a large extent dependent upon three other supporting regulations, namely, the water works and sewage works regulation, dealing with operator certification, the drinking water protection regulation, and the designated systems regulation, all of which are undergoing fundamental modifications. Large municipalities such as the city of Ottawa are extremely hard pressed to be able to support and comment on these provincial initiatives to the extent necessary. Smaller communities must be in a worse position to recognize and appreciate the degree to which this fundamental service is being altered, much less to be able to react to it. City staff are concerned that the current rush to regulation will in fact result in less understanding and comprehension of the new service delivery realities that this service deserves.

Equally important to the drinking water service providers is the timing of various requirements of the Safe Drinking Water Act. While city staff are concerned about the ability and consequence of implementing the suggested changes in the limited time frames listed in part two of the Walkerton report, the absence of schedules within the proposed legislation does little to improve upon the confusion that currently exists for drinking water providers and their customers. We suggest that the ministry lay out a timetable explaining when various aspects of this new act could come into force. This information could form an important part of the blueprint for change that we talked about earlier and could provide water suppliers with a plan and an ability to budget to meet these new budget realities.

One of the strongest recommendations of the Walkerton report was to urge the province to speak from one source when it comes to drinking water and environmental protection. We are pleased to note that the province is beginning to alter the responsibilities so that they meet this recommendation. Recent changes to the responsibility for the administration of the Sustainable Water and Sewage Systems Act and the Nutrient Management Act are important improvements to better consolidate and clarify program delivery and responsibility. We are encouraging the government to continue with this approach so that the Ministry of the Environment will be the sole ministry with clear responsibility in the environmental protection and drinking water delivery fields.

The relationship between the Ministry of the Environment and the drinking water service providers is changing fundamentally and dramatically. Just as guidelines have become legally enforceable standards, so too have inspectors become regulators. It will become important for both the ministry and the municipalities to appreciate this difference and to begin to communicate accordingly, especially with our customers. It is important that when conveying information with respect to compliance with drinking water standards, a clear distinction be made between issues that pose an immediate

health risk and those that may entail a bureaucratic or reporting deficiency. For example, it would be important to distinguish between reporting critically important issues, such as the presence of e coli in drinking water, and a failure to post an operator certificate in a prominent location. Any failure to recognize this and to distinguish between these types of situations could lead to a needless loss of confidence in our service that we provide.

The new Safe Drinking Water Act proposes significant changes to the current operator certification program, including an end to grandfathering and the need for periodic recertification. Let me be clear that the city staff are very supportive of the need to require operators to pass an examination and to pass periodic recertification examinations. However, we are equally concerned about the potential loss of skilled and knowledgeable operators these initiatives may cause. This same concern has been expressed by a number of municipalities and must be considered in the context of the fact that approximately 2,000 of 4,000 operators across the province are currently grandfathered. We call upon the ministry to assist the municipalities in developing training and testing programs to confirm the knowledge and competency of our experienced operators and to eliminate a sense of intimidation that could prompt the departure from the industry of many otherwise talented and knowledgeable operators.

As important as it is to ensure that current operators are able to continue in this service, it is equally important that the province and the municipalities work together to identify where future operators are going to come from and how we ensure that there is a ready and adequate supply of trained staff to operate these critically important systems. We recommend that the province, the municipalities and training institutions work together to develop the training programs that will ensure that a continuous supply of qualified operators is readily available.

In setting the level at which citizens of Ontario should expect their service delivery, Commissioner O'Connor stated "a reasonable and informed person ... would feel safe drinking the water." This, city staff feel, is a reasonable approach. However, we are concerned that this seamless level of service may not be attainable under the proposed regulatory framework that distinguishes very significantly between the responsibilities of municipal and non-municipal drinking water service providers. Under the act, municipal service providers are required to have licences, operational plans, accredited operating agencies and financial plans, all of which are subject to the scrutiny of the province and the public.

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As for non-municipal service providers, they are required only to submit design documents, obtain the local municipality's consent and, once construction is complete, submit a certificate of compliance that the works have been constructed as proposed. There is no requirement for a licence, an operational plan, a financial plan or an accredited operating agency. We feel that this regulatory imbalance poses a risk to public health.

Perhaps even more unfair are the act's provisions to impose upon the local municipality in which any non-municipal system is located a sort of no-fault insurance coverage for non-municipal systems. Three different sections of the act describe the province's ability to impose upon the local municipality the operating, maintenance and perhaps ongoing ownership liability for these systems with little or no opportunity to refuse on the part of the municipality. Further, the municipality may not even be able to recover the costs associated with these imposed systems.

The result is that municipalities have little choice but to either ban these systems or impose upon these developments the rules the province has imposed upon the municipal systems. Rules that call for operational plans and financial plans have conditions of obtaining municipal consent. The province is in effect imposing upon local municipalities the provincial responsibility to ensure that a reasonable, informed person served by a non-municipal system would feel safe drinking the water. This differing standard of service is inappropriate and inconsistent with the entire thrust of the Walkerton commission's recommendations.

Water suppliers across the province are increasingly aware of the potential impact that distribution system care and maintenance have on the quality of water delivered. An oversight we would like to see redressed in the new act is the responsibility to operate distribution systems in compliance with industry best practices and standards.

In the city of Ottawa, for example, we estimate that approximately 500 kilometres of water distribution system is beyond the municipality's responsibility to operate. This includes systems operated by local health complexes, university campuses and federal government installations. We would suggest that private owners of large distribution systems be required to develop and submit operational plans to their municipal water supplier for review and approval. We feel that the risk of contamination and failure would be minimized with this type of approach and would greatly increase the protection of public health.

We are, however, pleased to see the province moving ahead with Bill 175, the Sustainable Water and Sewage Systems Act. As we mentioned previously to both the minister and Commissioner O'Connor on their visits to Ottawa, sustainable financing is as important to service delivery as water quality monitoring is to drinking water.

One issue that we feel we should bring to the attention of this committee is the need to include storm water collection and treatment within a sustainable financing plan. For older cities such as Ottawa, this aspect of environmental protection and enhancement is a critical component of our service and, as recognized by watershed protection plans, storm water is an integral component of source water protection and thereby public health protection.

We feel that this aspect of municipal servicing needs to be dealt with on a sustainable basis and suggest that

the ministry needs to take this into consideration in finalizing both the Sustainable Water and Sewage Systems Act and the Safe Drinking Water Act.

Finally, we continue to have concerns with the entry of the province into this area of municipal responsibility. We hope the provincial oversight function does not overwhelm the need to continue to allow for locally determined service levels, staffing levels and funding approaches. We look forward to participating with the province in the development of regulations supporting Bill 175.

In summary, we feel that both the Sustainable Water and Sewage Systems Act and the Safe Drinking Water Act outline a sound and rational approach to service delivery and health protection. That being said, there are some issues we believe need further exploration or explanation to ensure that the best possible service delivery is provided to the citizens of the province.

With the Safe Drinking Water Act, these opportunities include the province developing a blueprint for change to inform municipalities and citizens alike of how they propose to deal with the issues identified within the Walkerton reports but not yet dealt with by act or regulation. These would include complex issues such as source water protection and entanglement between provincial and municipal roles and responsibilities, as well as the federal role. Secondly, ensure that the speed of implementation of the modified and restructured acts and supporting regulations does not overwhelm the municipalities' ability to consult, comprehend and comply with them. Thirdly, more clarity is required around the issue of timing for various initiatives considered within the act. We hope these would be included within the blueprint for change mentioned previously.

Continued consolidation of environmental responsibility within the Ministry of the Environment is also beneficial. Operator certification needs to be handled carefully by the province and municipalities alike to ensure knowledgeable and experienced staff are not intimidated into or inadvertently encouraged to leave their chosen profession. Further, training programs need to be developed to ensure the development of future operators and the ongoing professional development of existing operators.

The proposed differing standards between municipal and non-municipal water supply systems create a public health risk and impose provincial responsibilities on to municipalities. Unregulated non-municipal distribution systems pose a potential health risk that would be best addressed by clearly making them subject to the requirements of these acts.

With respect to the Sustainable Water and Sewage Systems Act, it too is an important piece of public health protection legislation that the city readily supports. However, like the Safe Drinking Water Act, there are opportunities for improvement, and these include addressing the issue of storm water collection and treatment on a sustainable basis, and ensuring that local

municipalities continue to be able to develop local levels of service and cost recovery strategies.

We hope the ministry and the province will take advantage of the knowledge and expertise that is available across the province and will consider the changes offered in these consultation sessions when finalizing the acts and the supporting regulations.

Certainly the city of Ottawa is prepared to support the ongoing development of the act and its regulations and would be pleased to assist in any way the minister or ministry may find helpful. Thank you for your time and your interest.

The Chair: Thank you very much. That affords us time for only one caucus to ask a couple of quick questions. I believe the last time we started with the official opposition, and so this time it would be Ms Churley.

Ms Churley: I don't want to throw it out of whack, but I would defer to one of the local members to ask a question.

The Chair: That's very kind of you.

Mr Murdoch: I'm not a local member, but I think Garry would like me to comment just quickly, since I am the parliamentary assistant. I was going to mention that a lot of your concerns are going to be addressed in the regulations. We are working quite closely with AMO on those. If Ottawa wants to have someone on the AMO team, we'd certainly appreciate that. Also, there will be another act with the water source.

I was trying to think of the other one. In terms of training, we have a new centre that will be put into Walkerton, which hopefully will get control of that, because you're right, it's all over the map. So some of those concerns will be addressed.

The Chair: Mr Patten?

Mr Patten: Two quick ones. You identified the non-municipal system that falls within the geographic area of the municipality and that that could impose on municipalities extra costs that aren't readily seen. Do you have a specific example? In other words, are you really concerned about this for Ottawa?

Mr Weir: I think it's a concern. Certainly in Ottawa we're faced with this situation. We don't have a health concern, but we are concerned that we don't know what's going on within some large private distribution systems. The lack of awareness poses some concern to us. We feel that as we have a responsibility to provide operational plans on our distribution systems, we think people within those areas would likewise be well served by operational plans that are consistent with our own and with water quality monitoring.

The Chair: Thank you for coming before us here this morning. We appreciate your presentation.

KINGSTON CONSTRUCTION ASSOCIATION

The Chair: Our next presentation will be from the Kingston Construction Association. Good morning and welcome to the committee. We have 15 minutes for you

to divide as you see fit between a presentation or questions and answers.

Mr Murray Aitken: Good morning, Mr Chair and members of the committee. They say the only thing tougher than following a comedian when you make a speech is going right before lunch, so bear with me.

The Chair: Apparently you're not the person the Hansard expects. Could I get you to introduce yourself for the purpose of Hansard?

Mr Aitken: Sure. My name is Murray Aitken. I'm a director at large and a member of the board of directors of the Kingston Construction Association.

Our construction association represents over 300 member firms in the greater Kingston area. We're pleased to have the opportunity to offer some insight and hopefully present some valuable views on Bill 175, the Sustainable Water and Sewage Systems Act.

During this presentation, I'd like to explain our support of the bill, explain who I am and what the construction association is and also comment on some loopholes, on a tangential point to Bill 175, regarding impost fees and development charges in the greater Kingston area. Moreover, I was planning on underlining the five amendments that we've all heard several times already today. I'll leave that alone but also try to reiterate the need for this safe and sustainable water system.

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The member firms of the Kingston Construction Association employ over 5,000 people. We serve industrial, commercial, heavy civil and institutional sectors. We have members that are from pipelayers to sheet metal workers. We have probably the best first-hand experience, next to the actual operators, in how these systems are maintained, how they're repaired, how they're replaced, from sewers and water mains to water treatment plants and waste water treatment plants.

In addition, I'm a project manager with Anchor Concrete Products, which is a supplier of precast concrete components. We're a family-owned company. We've been around for 30 years. Pre-manufactured concrete products range from catch basins and manholes to potable water reservoirs, private septic systems and well units and well casings.

From both the Kingston Construction Association's viewpoint as well as Anchor Concrete Products' viewpoint we've got first-hand experience in the field of seeing deteriorating infrastructure, not only in Kingston but across Ontario.

Naturally, the Kingston Construction Association is committed to the maintenance and expansion of the province's vast network of water and waste water systems. We support Bill 175 because maintaining a healthy water supply requires a continuous investment by government and consumers. We feel it's an important step toward ensuring that Ontario's water and sewage systems are financially sustainable, good for public health and environmentally friendly.

We're faced with a critical need to invest in our water and sewage infrastructure, as you've already heard today,

in Kingston. If you're not aware of the city, we're about two hours from here. We have 120,000 people. We have a broad mixture of employee bases. We lie at the intersection of the St Lawrence River, the Rideau Canal and Lake Ontario. From that, we're one of the oldest cities in Ontario. Certainly our downtown core is one of our oldest ones. We're Canada's first capital. We've got a lot of newer urban areas. Like any other municipality, we've grown. We have a lot of smaller villages and municipalities in the area.

We have become more recently known for some disastrous storm overflows. Doug Haight from Taggart Construction commented on those. We've had some pretty high-profile environmental charges relating to leachate contaminating both the sewer as well as the rivers. As Doug touched on, we've got a leaking sewer main and a water main that runs underneath the river. It's been an issue for a number of years and it just hasn't come up to speed and we're now just getting to the point where we may actually see it come out for tender.

Like many areas, we have an endearing city council. I hate to admit it, and you hate yourself for watching them on that weekly television program, but we recently tuned in and—

Mr Patten: You don't fall asleep, though.

Mr Aitken: No. It's a dry subject. What happened just recently was our CAO urged our city council to actually put off projects. Stop spending; don't spend any more. Don't fix roads, don't fix sewers because we have such a backlog. Burt Muenier, the CAO, explained that "a multi-million-dollar backlog of projects have received funding approval but haven't yet started due to a lack of city staff to manage the workload.

"To help avoid the problem, council decided that capital works projects may be bumped from the priority list if they don't get started within two years after funding is approved."

The workload and cost will only increase if we're doing this. The only reason we mention this point is because we feel Bill 175 is going to probably help to at least ensure a bit more planning and we're going to have compliance dates. We're not going to get into a situation where council is weighing off spending money on a police station versus spending money on leaking sewer mains.

We've already found that we've suffered a lot from a generation of neglect. Being an old city we have pipes that are—it's despicable in some ways.

Over and above our support for Bill 175, we wanted to bring up the loophole I alluded to earlier regarding development charges and impost fees. We only bring it up because the city of Kingston is exploiting this loophole. We feel it's a tangential point to Bill 175 and I think we're going to prevent this from happening.

I'll just quickly explain some background on development and impost charges. We realize municipalities need to finance new growth, so we've got development charges. We've accepted that as an industry, as have other areas. Existing ratepayers shouldn't have to foot the

bill for new growth as they've already paid for existing water plants. New growth can pay for new water plants and any additional capacity. As an association, we believe that it's important that funding for new growth be in place, so we've always supported these development charges.

The original legislation for impost fees was a small portion of the Municipal Act and is applicable to water and sewer infrastructure only. It allows municipalities who find they have overcharged for growth requirements to use the surplus funded by fees levied on new growth to be used for any capital projects. This legislation doesn't require background studies, there is no transparent reporting and you don't have to revisit fee levels after five years.

In contrast, the Development Charges Act requires rigorous background studies, more transparent reporting and updating every five years, and that funds are only available for growth-related expenditures.

While most municipalities are using development charges, and areas like to the GTA are definitely into that, Kingston is using a loophole in the system. They have passed a development charges bylaw for everything except water and waste water, and have taken advantage of the fact that the much older impost section of the Municipal Act has not been repealed. They have passed a separate impost fee bylaw for water and waste water growth funding. Hence, they are not subject to the requirements to do proper background checks or studies, proper transparent reporting and regular updating of the charges every five years. This can lead to overcharging new development on the backs of old development and hindering economic growth. We would suggest repealing the outdated portions of the Municipal Act that enable impost fees.

Further to that, we have been a proponent for many years of the full cost pricing and accounting legislation contained in Bill 175. We believe it is the only way to secure much-needed new upgraded infrastructure in a timely manner and to protect public health and the environment. It will help to stabilize business cycles and assist planning for municipalities and us as business owners. We want to applaud the government for moving to implement this policy.

We support Bill 175 and are particularly pleased that there is a section in the legislation that requires municipalities to have dedicated reserve accounts. Hence, it would circumvent some of the issues we are having with our loophole.

We believe the bill is a good framework but, as we already mentioned, we believe it could be strengthened with the five amendments that are listed in the handout. In addition, at the back of that handout are the actual articles that referenced our CAO.

If this legislation and the proposed amendments come into force, the government will need to ensure environmental and financial compliance by municipalities. As has already been mentioned, we believe it's too much of a task for one ministry, so we want to split it between two

ministries, the Ministry of Environment and the Ministry of Finance.

The members of the Kingston Construction Association support Bill 175 with the five amendments that have been proposed by the Ontario Sewer and Watermain Construction Association. We know it's the right thing to do for today, and we also believe it's the right thing to do for generations to come.

On behalf of the KCA, I would like to thank you for the opportunity to present our views.

The Chair: Thank you very much. That affords us about a minute and a half per caucus for questions. Ms Churley, I'll let you kick this round off.

Ms Churley: Thank you. I can think of a lot of questions to ask, but there's no time, so I'm going to just focus on the suggestion that keeps coming up over and over again, and that is the split between the two ministries, the Ministry of the Environment dealing with the environmental piece and SuperBuild dealing with the other piece. I'm not sure where that came from except that right now SuperBuild provides some funding for infrastructure programs. It came to my attention recently, for instance, and I raised this with the minister at estimates, that the government underspent \$171 million, only \$29 million of the budgeted amount, and the rest, we think, went back to general revenue. I'm in favour of a dedicated, safe drinking water fund, which was part of my original safe drinking water bill, but it's not in this one. It ties in with my concern as we speak about full-cost recovery, other governments giving money for infrastructure capital programs. I'm not quite sure what the big deal is—everybody keeps recommending that—where it came from, that it would be split. Why not just suggest a safe drinking water fund so that the Minister of the Environment, who is here, would have a direct say in the projects that are funded, which he doesn't get to do right now. SuperBuild decides.

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Hon Mr Stockwell: Who is this question to?

Mr Aitken: Would you like to take it?

Ms Churley: I don't understand the rationale for that.

Mr Aitken: We agree with the dedicated reserve funds wholeheartedly. The notion that we split it between two ministries I think just came about because we believe it's too much of a task to manage that one—Mr Stockwell's portfolio, I believe, has been taken to just environment from energy, and they've created a separate person to look after energy.

Mr Patten: He wants energy back, actually.

Mr Aitken: With what's going on with our hydro bill, I don't think he's wise to take it back.

Ms Churley: Aha. So there.

Mr Aitken: That being said, I think it's going to fall in the same kind of situation where it's too much to manage, all of that under one ministry. Most people around this table could probably contend that we're strapped as it is to manage some of these projects.

Ms Churley: We don't have time to pursue it.

The Chair: Thank you, Ms Churley.

Mr Dunlop: We keep hearing about SuperBuild and the Ministry of the Environment splitting up this file. I'm curious why people are not suggesting the Ministry of Municipal Affairs. Have you any comments on that? The financial has always gone to municipal affairs for municipalities. It's something I certainly want to bring up when AMO comes on Monday to our deputations in Toronto.

Mr Aitken: I don't really have a lot of comments on that, to tell you the truth. We support the whole bill. How it gets managed from a government point of view—we just want the dedicated reserve funds, and we want clean, safe drinking water, but how it happens from a government point of view, is something that—we're recommending it be done through these two ministries. We're open to other opportunities, and we are certainly not against municipal affairs being involved. How it would play in, I couldn't tell you. We're really supportive of the whole notion that this is even happening. We have to applaud the fact that in this legislation it's come to light. It's a big step.

Hon Mr Stockwell: I don't want to get too in depth into this debate. I think it's inside baseball with respect to how it's managed, where it's managed. It's more of a political argument than a public policy argument. I would just say that the Ministry of Finance and SuperBuild have the expertise to manage the financial components, to check the reporting and do it. We at the Ministry of the Environment have the ability to inspect, educate, level charges, and do those kinds of things.

I take your point. What I thought we were trying to accomplish here is a dedicated reserve fund, full-cost recovery, cleaning up the mess we have with separated sewers, and I thought we had gone a long way to doing that in this bill. If I thought there was going to be some huge debate on how the machinations of government work, I would have probably consulted on it. I just can't believe anyone gives a damn but us.

Mr Aitken: If I may, I completely agree. The important thing for us is that every day we can go to the tap and we can get a glass of water.

Hon Mr Stockwell: That's my point, too.

Mr Aitken: When that toilet gets flushed, you don't have a concern it's going to be on a beach you're going to have your kids swimming at. We're concerned that we can put a shovel in the ground and put pipe in the ground.

Mr Patten: Under the section where you talk about the city of Kingston using some loopholes on the development charges, you suggest "repealing the outdated portions of the Municipal Act that enable impost fees." Your assumption there is that development charges are essentially for new development and that has some parameters. Your impression is that that is abused and development charges, by virtue of bylaws, are introduced to charge all kinds of things that are unrelated to new development. The sections you identify as the outdated portions: do you have those noted?

Mr Aitken: Not in this presentation, but I could get them for you.

Mr Patten: If you could do that, that would be useful.

Mr Aitken: It's a side point, like I mentioned, but I think it's an important one. I believe Kingston is one of the only ones that has this type of set-up. Certainly, it's a whole other debate. We could probably sit around the room all day and talk about that one. But yes, I can get that information.

Mr Patten: OK. That would be useful, because I've been presented with that argument several times.

Mr Aitken: Is that right?

Mr Patten: Yes.

The Chair: Thank you very much for coming before us this morning.

SITE PREPARATION

The Chair: The final presentation of the morning session will be from Site Preparation Ltd. Good morning and welcome to the committee.

Ms Kathleen Grimes: Good morning, Mr Chairman and members of the committee. My name is Kathleen Grimes and I act as president and general counsel for Site Preparation Ltd and its related companies.

Our group of companies has been involved in sewer and water main construction since the early 1970s. Since that time, we have been involved in residential sewer and water main construction, as well as the construction of sewer and water mains in relation to industrial, commercial and institutional developments. In addition, we have also been involved in projects directly with various municipalities.

Accordingly, we are pleased to have this opportunity to present our views on Bill 175, the Sustainable Water and Sewage Systems Act.

Our company is committed to the maintenance and expansion of water and sewage systems in Ontario. We are supportive of Bill 175 because it provides the basis for the governance of all water and sewage systems in this province. For those of us in the industry, we have been well aware of the need for legislation if Ontario intends on maintaining a plentiful and healthy water supply.

I have a piece of pipe with me today—actually, it's at the back—that I brought from a project that we just completed in the Ottawa area this month. The project involved the replacement of an old cast-iron water main with a new plastic water main. I understand that you've already seen several decaying pipes, so I won't pull it out of my bag, but if you'd like to view it, it is in the back. It is just a sample of what those of us in the sewer and water main industry see on a regular basis and there are many more like this still delivering water in Ontario. In fact, there are still asbestos water mains delivering water in the Ottawa-Carleton region. One would have thought that all these water mains would have been replaced by now, but they haven't. I would suspect that lack of funding is the culprit.

This is why we are supportive of Bill 175. It sends a clear message to municipalities and consumers across

this province. Firstly, it makes it clear that clean water is an important priority. Secondly, Bill 175 recognizes the fact that to sustain a healthy water supply requires continuous investment by both governments and consumers. Thirdly, Bill 175 reminds governments and consumers alike that, although water and sewer infrastructure is out of sight, it should not and cannot be put out of mind.

Water and sewer infrastructure must be protected and must be sustainable over time. We believe that Bill 175 is an important step in this direction.

We have been proponents for full cost pricing and accounting legislation for many years. These concepts are the backbone of good governance and we believe it is the only way to secure much-needed upgraded infrastructure that will protect public health and the environment. Full cost pricing will stabilize business cycles and planning for those of us in the industry and for municipalities. This is particularly important with respect to municipal governments. Full cost pricing will ensure that all municipal governments take stock of their sewer and water main systems, determine the true costs associated with providing a sustainable water and sewage system and determine the source of revenue to fund such costs.

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With Bill 175, municipalities are being given direction on how to govern, and direction and guidance on how to act fiscally responsibly with respect to the water and sewage systems for which they have control and responsibility. With this in mind, we want to commend the government for moving to implement this policy.

Again, we support Bill 175 and we are particularly pleased that there is a section in the legislation that requires municipalities to have dedicated reserve accounts. I personally have been a huge proponent of dedicated reserve accounts because at the end of the day, one's knowledge of the costs associated with water and waste water systems, such as operating costs, financing costs, renewal and replacement costs and improvement costs, is all rather meaningless if the revenues raised to fund such costs can be spent elsewhere.

It's one thing to know what things cost and develop a cost recovery plan accordingly, but the funds collected must be set aside to cover those costs. I refer back to my earlier comment wherein I indicated that Bill 175 reminds governments and consumers alike that although water and sewer infrastructure is out of sight, it cannot be put out of mind.

In this sense, we believe the bill is a good framework and the basis for good governance. It ensures that full cost pricing and reserve accounts are on the minds of all municipal governments. But it is our view that it must be strengthened if we are to achieve the goal of creating sustainable water and sewage systems. As the bill now stands, there is too much left to regulation and not enough provisions entrenched in the legislation.

I am aware that the Ontario Sewer and Watermain Construction Association has made suggestions for strengthening the bill, and we support these amendments. I believe you've already heard the comments with respect

to those suggestions and I will not bore you with them again, although they are in the materials that you have been provided with.

One point I would like to clarify, however, is the difference—and I think this came up earlier—between full-cost pricing as we see it, which is an end-user pay system based on usage and cost, whereas full cost recovery, as outlined in the bill, basically says, “Come up with a recovery plan for costs, period.” It doesn’t specify how or put any limitations on the municipalities as to how they should do that.

We think that subsection 9(4) in the proposed legislation should be expanded upon to specify that the cost should be recovered from the end user through full cost pricing. We’re certainly not averse to the idea of subsidizing the end user, but not the costs.

If this legislation and the proposed amendments come into force, the government will need to ensure both environmental and financial compliance by municipalities. This may be a difficult task for one ministry alone to oversee. To address this, we agree with the suggestion that the best way to ensure that the legislation is implemented as intended is to amend the legislation to dictate which ministries are responsible for overseeing the bill. I have now heard a discussion on that, so I don’t think I’m going to mention SuperBuild and environment. I guess it’s probably appropriate for the government to decide how best to handle that.

I’d like to thank you for your time and ask if there are any questions.

The Chair: Thank you very much. That gives us about two minutes per caucus for questions, starting with the government members.

Mr Norm Miller (Parry Sound-Muskoka): I don’t think I can argue with your idea that the end user pays, but I’m trying to think practically as well—end users being households and families. Is there some sort of maximum cost that you would think a family should pay per household for water?

Ms Grimes: I believe that the Ontario Sewer and Watermain Construction Association has conducted studies that would indicate that the increase would be between \$2 and \$6 a month to implement full cost pricing. I think the bill is a step in that direction. Don’t get me wrong; I’m not saying let’s not implement this bill. It’s a great step, heading in that direction, but at the end of the day, I think it’s important that people be aware of what it costs to deliver water in this province and that they have to pay for it, and they have a better appreciation for its value, as well.

Mr Miller: Frankly, I’m surprised that it would be that low; \$2 to \$6 per month per household would be the cost—

Ms Grimes: That’s what I understand the studies say. We would be happy to provide that information to you.

Mr Miller: That’s sort of an average across the province.

Ms Grimes: Yes, but that wouldn’t account, maybe, for some of the smaller municipalities. As I said, I’m not

objecting to subsidizing the end users, but it has to be based on full cost—what does this cost to deliver in Ontario?—and charge the user accordingly based on usage and cost.

Mr Miller: How do you recommend subsidizing the end user? Have you any ideas on that?

Ms Grimes: I think that’s why we have elected officials, to figure that out.

Mr Miller: I thought you might have some good ideas.

Ms Grimes: I don’t know; I think that’s something that once you get the information in, once the information starts coming in from the municipalities—right now people don’t really have a good grasp, in my view, of what it costs to deliver safe water in this province. This is a good step to move forward with that and, you know, things change all the time.

Hon Mr Stockwell: You just made my point too—

Ms Grimes: Good.

Hon Mr Stockwell: And I appreciate it—with respect to, we need one specific piece of legislation that says specifically what exactly everyone needs to do. We have 415 municipalities. I can’t build a one-size-fits-all piece of legislation. That’s why they make their applications and we’re going to have differences about how they achieve it, when they achieve it, lengths of time and subsidies. That’s why the amendment that you’re offering, although I’m sure it’s well intentioned, is near impossible for me to deliver on, with 415 different municipalities.

Ms Grimes: Yes, I would agree, and I think once the information starts to flow in, the government will have a better handle on how to make further amendments; that’s what legislation has, are amendments, you know.

Hon Mr Stockwell: I appreciate that point. Thank you.

Mr Conway: Just to pick up on the earlier two points—because I think they’re very good points. You know, my colleagues will all have some responsibilities for this; I won’t. There’s a lot of virtue here and I’m big on virtue. I look at this and say to myself I can’t quarrel with anything you’ve said. I think you make a very powerful and compelling argument. The only question I have to ask myself is, “Why has none of this happened? Or why has a lot less of this happened than obviously ought to have been the case?” I think we know, after Walkerton—and listen, I’m more guilty than anybody else in the room. I ask myself the question—well, after Walkerton, everybody’s now going to sober up and be serious and all of these politicians, whether they’re local or provincial—you see, I think one of the problems the politicians have with this is there are huge costs, as the minister has just rightly said. The trouble with these costs is they’re buried under the ground and they’re big, big costs. You know, it’s a lot easier to go cut a ribbon on a day care centre or on an arena—and we’ve all done it; I’ve done it.

Ms Grimes: I hope I made that point, subtly, but yes, it is a problem because it’s out of sight.

Mr Conway: Tell me, Kathleen, help me with this a little bit. I may need a course in psychology as to how I'm going to change the fundamental politics of this, because you're absolutely right—

Ms Grimes: I don't know. I'm not a psychologist, I'm a lawyer, but I think—

Mr Conway: Well, then, you've got to be—

Hon Mr Stockwell: You've got to be a psychologist.

Ms Grimes: I will be today.

Mr Conway: Because I want to be blunt. I think I know why we've got a lot of the problems. Politicians everywhere kind of look at this and say, "We know what we know. How do we get this across and build a constituency for it?" I think the minister is right. He made some comments earlier that there's a huge job in terms of public education out there.

Interjection.

Mr Conway: Well, I don't know. The judge says we may or may not be able to conquer all with veritas. All I know is that there's an expectation that the psychology that has driven the provincial and municipal politicians for the last half-century is going to change significantly. I hope and pray it does, but it seems to me there are some very nasty issues around planning and zoning and subsidization that are at the heart of some of the most difficult municipal and provincial politics I've ever encountered and I hope virtue and truth are all that it's going to take.

Ms Grimes: I would hope so, but this is definitely a step in that direction. I think there's an acknowledgement by the government that somebody has to step in and set some rules on how they're going to deliver safe drinking water in Ontario, together with sewage systems. I mean, this is the step, and maybe everything, as you had said, is not going to be done right the first time, but it is a step and we're very supportive of that.

Mr Conway: Well, you've been a clear and helpful witness and I thank you for your submission.

Hon Mr Stockwell: When you get money, virtue and truth will follow.

Ms Grimes: Is that true?

Ms Churley: My suggestion would be that we all suit up and we go down into the sewers and we take a look for ourselves, which I have done.

Interjection.

Ms Churley: I have, in the sewers. I only went once. But seriously, it was quite an education. You're quite right that we don't see it.

Ms Grimes: You don't see it, so it's out of mind.

Ms Churley: When people don't see it. I'm serious about that. Chris, you should go down in the sewers. I'll take you down. I'm sorry to say this, but this takes us back to when the minister said that how the finances are handled is inside baseball and not relevant to this discussion. But it is, and this is why: As I said earlier, the SuperBuild funding and OSTAR funding—right now, there's no dedicated water fund.

I'll be finished in a second. All this money goes to all kinds of other projects, and even then \$171 million of the municipal partnership fund was not spent.

The reason I'm raising it again is this: you raised a very good point about municipalities being strapped. Justice O'Connor referred to that. The municipalities are choosing, as do other levels of government, to spend the money on their arena or whatever, where people can see it. This brings me back to my argument that we've got to take the plunge and come back to having a dedicated water infrastructure fund that cannot be stolen from—

Ms Grimes: I think that even goes a step beyond what we were contemplating at this time. I think mentioning environment and SuperBuild, and having two ministries involved, was simply to oversee municipalities—one, to oversee how they're handling it from a financial perspective, and the other, from the practical side with environment. Certainly, we would definitely support an additional reserve account financed by the provincial government.

Ms Churley: For the infrastructure costs.

Ms Grimes: For infrastructure costs, certainly, other than a user-pay system that has a dedicated reserve system on the municipal level.

Ms Churley: Thank you very much.

The Chair (Mr Steve Gilchrist): That concludes our morning session. The committee will stand in recess until 1 o'clock sharp.

The committee recessed from 1202 to 1300.

DUFFERIN CONSTRUCTION

The Chair: I'll call the committee back to order promptly at 1 o'clock, as promised. As we consider our deliberations on Bill 175 and Bill 195, our first presenter in the afternoon is Dufferin Construction Co. Good afternoon, welcome to the committee.

Mr Michel Rodrigue: Good afternoon, Mr Chairman and members of the committee. My name is Michel Rodrigue. I'm district manager, eastern region, representing Dufferin Construction. Dufferin Construction is a heavy civil contractor employing about 600 hourly paid workers and 140 salaried workers. So we have quite a large workforce. In 2001, as a matter of fact, Dufferin Construction was rated as the 13th-largest contractor in Canada. Last year we undertook approximately \$316 million worth of work, primarily in the province of Ontario. Dufferin is on the frontline of sewer and water main construction. I think we can speak comfortably as having first-hand knowledge of the condition of the existing infrastructure, and that's what I'd like to deal with today.

I'd like to begin by stating that we are fully supportive of Bill 175 because maintaining a clean and healthy water supply requires a steady stream of investment.

There are amendments that we would like to see introduced to improve the bill; however, in my opinion, even without those amendments, the bill is a critical piece of legislation that is long overdue and for four very good reasons should be passed by this legislative group.

The first issue I'd like to talk about is health. I think that I can state without any risk of contradiction that

every community in Ontario experiences occasional water quality problems. Thankfully, most of the problems are minor. However, I believe that even the minor problems and most certainly the major problems are unacceptable.

Interruption.

Mr Rodrigue: I guess I'm going to have musical accompaniment.

We do not live in a Third World nation where contaminated drinking water is accepted as a way of life. We should not be a province where we spend more on bottled drinking water than we do on tap water.

From an engineering point of view it's not difficult to draw water, purify it and deliver it through a pipe to your home. Why do we fail so miserably, so often, in achieving this simple task?

The answer, in my opinion, is that a water system is only as strong as its weakest element. If somewhere in the delivery system there is a pipe that is past its best before date, then of course you will experience failure of the entire system. Contaminants will infiltrate the system and the public's health will be placed in jeopardy.

"The public" is an expression that sounds remote. I'd just like to bring the reality of the situation a little closer to home. You, members of this committee, have before you glasses of drinking water. Unfortunately, they come from a bottle. If they came from a tap, I could tell you that up until January 15 of this year the water you were drinking in this hotel flowed through a pipe that was constructed in 1894. This pipe was buried under the Rideau Canal approximately 100 years ago along the alignment of Laurier Avenue, for those familiar with the city. The cast-iron pipe was made before the First World War—in fact, before automobiles were common on the streets—and joined together using poured lead joints. The pipe was laid under the Rideau Canal in an area that ultimately became contaminated by the old railway yards in front of Union Station, for those of you who remember when there were railway yards there.

Dufferin Construction replaced that pipe last winter and consequently has first-hand knowledge of this. I can say that the water in front of you, if it was coming from a tap, would be safe to drink. At least, I assume it would be. If you visited the hotel at this time last year, I can assure you that definitely the water was well beyond its best before date.

The second issue I'd like to discuss today is the environment. Of course water in Ontario is in plentiful supply. We all know that. Unless your head has been buried in the sand, you also know that we are polluting Ontario's water at a dreadful rate. We need to conserve our water if for no other reason than because our children and grandchildren will need clean, unpolluted water.

I give you as an example of the environmental problem the town of Carleton Place. Many of you from the Ottawa area are familiar with it. It's located just west of Ottawa on Highway 7. As recently as 1980, the town drew water from the Mississippi River, purified and distributed it. They distributed almost twice as much

water as was metered in the households it was delivered to. The reason for this was the water mains leaked. They leaked because they had not been properly maintained and replaced. They were cast-iron water mains. They didn't have any sacrificial anodes. The soil was hot, or reactive, and ate holes in the pipe, and the pipe wasn't very old when it started leaking.

Again, the system is only as strong as its weakest element and there were plenty of weak elements in the town of Carleton Place water system in the 1970s and 1980s. This can't be good for the environment—perfectly good water drawn from the river, treated and pumped right into a leaky pipe. I believe the town of Carleton Place has repaired their problems at this point, although I'm not sure of that. But I can assure you there are plenty of other communities in Ontario where they haven't fixed those problems, for lack of money and poor planning. Thousands of litres of water are wasted every day through broken water mains, and I don't think we can afford to waste that water.

Examples of leaking systems abound and, without proper maintenance, the problems will only grow. We must put in place legislation that requires communities to maintain their water systems if for no other reason than to maintain water.

Thirdly, let's discuss finance. Every year we dance around tax hikes and tax cuts at the municipal level. Ottawa is going through that process right now. With a \$1.8-billion budget for 2003, it's inevitable that someone at some time is going to start demanding that a capital works program be cut in order to trim the fat.

Replacement of an old water main prone to infiltration of contaminants, like Laurier Avenue, replacement of a leaking water main that breaks every winter and wastes our valuable natural resources, like the ones in Carleton Place and also Rockcliffe Park, or installation of a feeder main to a high-tech business park does not constitute fat, in my opinion. And yet a few days ago a journalist wrote in the *Ottawa Citizen* complaining that city council had hidden away \$120 million to spend on replacing an aging infrastructure. The headline read, "\$290 Million Cash Stash Kept Secret From Councillors." That's in Monday's paper if you want to look at it. Thank goodness the people who run Ottawa have the foresight to set aside money for these important matters and have the wisdom to spend it where it's needed, that is, on water mains that are still in use long after their best before date has expired.

Not all communities are as professionally run as Ottawa, hence the need for legislation to ensure that decisions concerning our health and environment are made for sound engineering reasons, not because someone with a loud voice wants a new arena, a library or a conference centre rather than clean water.

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I would also like to look at economic opportunity. I'm not sure how this ties in to Bill 175, but I think it needs mentioning. Good-quality infrastructure helps drive the economy. I don't think anybody would argue with that.

Good roads, bridges, border crossings, ports, rail systems all serve to provide a conduit for healthy, prosperous communities to attract investment and provide employment.

On the western outskirts of Ottawa, we have a concentration of high-tech businesses that require world-class infrastructure to survive. Processing plants that produce fibre optic switching gears, state-of-the-art medical equipment, specialty chips and processors all require a constant flow of clean water, and that's critical to their manufacturing process—water required for manufacturing as well as drinking. Without the infrastructure that Ottawa can provide, there would never have been a Kanata high-tech business park. World-class infrastructure can attract business and therefore create economic opportunity.

This legislation, Bill 175, is an important step toward ensuring that Ontario's water and sewage systems are financially sustainable, good for public health and environmentally friendly. Currently, we are faced with a real need to invest in our water and sewage infrastructure. We have been a proponent of full cost pricing or full cost recovery and accounting legislation for many years. We believe this will lead to much-needed new, upgraded infrastructure while protecting the public health and the environment. It also provides a means to stabilize business cycles and planning for us contractors and for the municipalities. With this in mind, we want to commend the government for moving to implement this policy.

We support Bill 175 and are particularly pleased that there is a section in the legislation that requires municipalities to have dedicated reserve accounts. While we believe the bill is an excellent piece of legislation, it's our view that it should be strengthened if we are to achieve the goal of creating sustainable water and sewage systems. I am aware that the Ontario Sewer and Watermain Construction Association has put forward some amendments. I won't go through them again, but we do support these amendments.

If the legislation and the proposed amendments come into force, the government will need to ensure both environmental and financial compliance by the municipalities. This may be too large a task for the ministry to oversee alone. I think this might have been mentioned in a previous speech. To address this, we agree with the suggestion of that previous speech that the best way to ensure that the legislation is implemented as intended is to amend the legislation to dictate which ministry is responsible for overseeing the financial and which the environmental. These are matters that could be shared by the Ministries of the Environment, Finance and Municipal Affairs.

I thank you again for this opportunity to address the committee.

The Chair: That affords us just under two minutes, so I'll give the time to Mr Patten.

Mr Patten: I think the construction association of Ontario executive committee must be represented by all

these companies that presented today because you're all saying the same thing.

Mr Rodrigue: Well, in our own words, I hope.

Mr Patten: In different ways.

You're right, the committee has heard the five recommended amendments that are suggested. You made a comment, "The bill is a critical piece of legislation that is long overdue and for four very good reasons must be passed by this legislative group." I should tell you, with a majority government, the government controls the Legislature. They can call what they want, when they want and pass whatever they want. I think you probably know that. When the Legislative Assembly meets, we like to think that we, in opposition, can sometimes offer some points of view that might change or contribute to ameliorating the process, but I just want to point out that if the government is with you on this one, it will be passed; which is not to say that we're not with you, it's just to say that in a majority government, that's there.

When you talk about healthy water, you're talking more than volume; you're talking about good quality water.

Mr Rodrigue: My concern is that when a water main breaks—and they do regularly in Rockcliffe Park in the wintertime—the water main empties into the trench and then, if any water drains back into that pipe, it is now contaminated by whatever was in the ground. That's what I mean by healthy water.

Mr Patten: If I may make one suggestion to your industry, when politicians are trying to respond to requests for money for hospitals, education and the general environment—and there's a need obviously that we recognize for sewers, which nobody sees, and the infrastructure of things—there is a need for good partners who will also help promote that concept of the nature of the infrastructure. It's probably only when disasters happen that suddenly the public increases its awareness.

I appreciate your presentation today, but I would also throw out a challenge likewise. It seems there's general agreement in your field and your industry and sector, but we've got to make the allocations for those and people have to see the interrelationship between health, environment and good community infrastructure.

Mr Rodrigue: Yes. If there's anything we can do to support the legislation, we would be prepared to do it. If what you're saying is that we need to have an understanding of the demands on government in terms of financing from the health point of view, as well as education, absolutely, we understand those things. It's in the headlines every day.

The Chair: Thank you for coming before us to make a presentation today.

MORVEN CONSTRUCTION

The Chair: Our next presentation will be from Morven Construction Ltd. Good afternoon and welcome to the committee. Just a reminder: you have 15 minutes

for your presentation, for you to divide as you see fit between your talk or questions and answers.

Mr René Doornekamp: Good afternoon, Mr Chairman and members of the committee. My name is René Doornekamp and I'm president and founder of a company called Morven Construction. We do sewer and water main construction in the Kingston area. I'm also past president of the Ontario Sewer and Watermain Construction Association.

My company and our organization are committed to the maintenance and expansion of the province's vast network of water and waste water systems. We are therefore supportive of Bill 175, because maintaining a plentiful, healthy water supply requires a continuous investment by government and consumers. This legislation is an important step toward ensuring Ontario's water and sewage systems are financially sustainable, good for public health and environmentally friendly. Currently, we are faced with a critical need to invest in our water and sewage infrastructure.

I'm from the Kingston area. Earlier today, you heard of problems in the Kingston area. One of the biggest problems is that we have a sewer line under the Cataraqui River, which is part of the Rideau Canal system. We don't know the exact location of this pipe or even its condition. The only thing we know for certain is that it's way past its design life, and the only reason it hasn't been rectified or there hasn't been a solution to the problem is that there hasn't been any money available to do it. The money is huge and the problem is complex.

In the Kingston area also, we've got a beautiful waterfront and we're constantly plagued by sewers overflowing during heavy storms. In a nutshell, if this act was passed in the early 1900s, this problem would have been solved 30 years ago.

We have been a full proponent of full-cost pricing and accounting legislation for many years. We believe it is the only way to secure much-needed new and upgraded infrastructure and to protect public health and the environment. It also means stabilized business cycles and planning for us and municipalities. With this in mind, we want to commend the government for moving to implement this policy.

We support Bill 175 and are particularly pleased that there is a section in the legislation that requires municipalities to have dedicated reserve accounts. While we believe the bill is a good framework, it is our view that it must be strengthened if we are to achieve the goal of creating sustainable water and sewage systems. As the bill now stands, there is too much left to regulation and not enough provisions entrenched in the legislation.

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If this legislation and proposed amendments come into force, the government will need to ensure both environmental and financial compliance by municipalities. This may be a monumental task for one ministry alone to oversee. To address this, we agree with the suggestion that the best way to ensure that the legislation is implemented as intended is to amend the legislation to dictate

which ministry is responsible for overseeing the environmental aspects of the bill and which is responsible for the financial aspects of the bill. The Ministry of the Environment should be responsible for environmental oversight, while the Ministry of Finance, or SuperBuild, should be given the financial oversight responsibility.

Thank you again for this opportunity to address the committee and I look forward to any questions.

The Chair: Thank you very much. That affords us two and a half minutes per caucus for questions. This time we'll start with Ms Churley.

Ms Churley: Thank you very much for your presentation. We have heard from many construction, sewer and water main workers. You seem to all agree on this one particular bill. Have you had the chance to look at the Safe Drinking Water Act at all?

Mr Doornekamp: No, I haven't.

Ms Churley: So your main focus is this. I just wanted to talk to you a bit about the full cost recovery and what it means to you. In trying to define it we have to recognize that particularly the smaller municipalities, but even medium-sized ones, with all the other costs that in fact Justice O'Connor directly spoke about in part two of his report, that the restructuring, as he called it—we call it downloading to municipalities—means that they're having to take on more social costs, like welfare, that it's going to be a real burden and suggests that the government review that. But the reality that we see, and many people have said this, is that governments tend to spend money on what's visible, not what's underground: the pipes.

It's a big problem. What I'm suggesting is that although I support full cost recovery in principle, the two senior levels of government pull together a dedicated capital infrastructure program to deal with the infrastructure deficit that we have. People should not have to be paying for that, or at least only a portion of that, because otherwise it's unworkable. You, more than most, know how big that infrastructure deficit is. Do you think you would support that?

Mr Doornekamp: Oh, exactly. I think this program has to be phased in over a period of five to six years. At the end of that period, essentially what it would cost to produce a litre of water is what you charge your consumer. But we're not going to turn around and put this in effect next week. It's a long process.

We talked earlier about smaller municipalities. I live in a town called Napanee. Their water supply system works on the full cost pricing system. They charge whatever it costs to produce water. Essentially they've adopted this policy already and it works for them.

Ms Churley: Did they have infrastructure problems to begin with?

Mr Doornekamp: They did, and various government programs have brought things up to speed. There's still work to be done, but right now, every year, they're putting money aside to upgrade their existing infrastructure.

Ms Churley: That's good.

Mr Dunlop: I didn't know if you knew it or not but Ms Churley has actually been down a sewer pipe.

Mr Guzzo: Were you in government at the time or opposition?

Mr Dunlop: I'm curious whether or not she had the proper ventilation equipment when she went down there.

I just wanted to say to you, sir, we've heard the comments a number of times this morning and the last couple of days about how we don't have a lot of ribbons to cut around a sewer pipe or a water main, but I want to compliment your industry on getting out to this particular round of hearings. We've heard very loud and clear from your industry—

Mr Guzzo: Welcome to eastern Ontario.

Mr Dunlop: Well, it was the same in Queen's Park as well, but I appreciate the fact that you've made such a strong deputation throughout all of the hearings so far. That's really the only comment I had, is that we're hearing the same story basically over and over again. I compliment you on that.

Mr Miller: I'm interested in smaller communities, because in my riding of Parry Sound-Muskoka we have many smaller municipalities. You were saying the town of Napanee has full cost—

Mr Doornekamp: Yes, essentially. It wasn't instituted by the OSWCA, but just basic business principles dictated that they do business this way.

Mr Miller: What sort of typical costs are there to the people of Napanee per household? Do you have any idea?

Mr Doornekamp: I couldn't tell you that.

Mr Miller: I was surprised by one of the earlier presenters, when I was trying to get some idea of what this was going to mean to the average person in the average household. He said it was only \$2 to \$6 beyond what they are paying now per month. I was surprised. I would have thought it would be a much higher cost than that.

Mr Doornekamp: I don't actually live in the town, so I'm on a well, but I've never heard any complaints about large water or sewer bills.

Mr Miller: That raises a good point. You're on a well. How will you feel if we, as the provincial government, decide that we should subsidize smaller communities or cities that are faced with large costs to deal with this?

Mr Doornekamp: Some of the have-not communities need it, and it's good for the province. I think we should do it.

Mr Miller: OK. Thank you.

Mr Patten: No questions.

The Chair: Thank you very much for coming before us today. We appreciate your presentation.

SOUTH NATION CONSERVATION CLEAN WATER COMMITTEE

The Chair: Our next presentation will be from South Nation Conservation Clean Water Committee. Good afternoon. Welcome to the committee.

Ms Ronda Boutz: Good afternoon, Mr Chair and committee members. Thank you for the opportunity to present to you today on behalf of the South Nation clean water committee (CWC). My name is Ronda Boutz. I'm water quality coordinator with South Nation Conservation. Archie Byers, mayor of North Stormont township and a member of the clean water committee, will join me at the end of the presentation to pass along some comments from the municipal perspective.

The South Nation clean water committee supports the implementation of Bill 175 and Bill 195 to protect our drinking water. We understand that the regulations, when announced, will provide more of the actual details on how you will be protecting surface and ground water.

What I'd like to do today is to bring forward two recommendations to this committee on the proposed bills from our clean water committee.

The South Nation clean water committee recommends that watershed management programs such as total phosphorus management be an eligible component under the full cost accounting for water and waste water services under Bill 175 and Bill 195, and further recommends that, where full cost accounting for water and waste water infrastructure in small rural communities is cost-prohibitive, the province provide financial assistance.

I'll take just a couple of minutes to go over what our Clean Water Committee is and what the total phosphorus management program is all about.

The Clean Water Committee is a multi-stakeholder group with representation from agriculture, government, environmental groups, municipalities, industry, South Nation Conservation and other stakeholders throughout the watershed that have an interest in water quality and water conservation. We have an established track record and have been assigned implementation of several water management programs in the South Nation River watershed under South Nation Conservation. One of the key programs that we operate is the clean water program. It offers grants to water quality improvement projects. Funding for the program comes from several sources, including the total phosphorus management program. Some of the local municipalities have used their water bill funds to help fund the total phosphorus management program in our watershed.

Our watershed is located in eastern Ontario. It's approximately 3,900 square kilometres. We have 15 lower-tier municipalities and a population of about 90,000. About 60% of our land use is agriculture, predominantly dairy and cash crop. We have 17 waste water lagoons that discharge into the South Nation River. Our drinking water supplies comes from both ground water and the South Nation River itself. As a result, in order to provide a safe surface and ground water for drinking, the first line of defence must be prevention. One way to prevent contaminants from entering the water system is to implement best management practices, and this is what we are doing through the clean water program.

The total phosphorous management program, or TPM for short, is a water quality offsetting program where

increased phosphorus loading from new or expanding municipal or industrial waste water facilities is removed by implementing non-point source projects such as manure runoff control, the upgrading of faulty septic systems, stream bank erosion control or treating urban storm water.

The South Nation River phosphorus levels at our outlet exceed the provincial water quality objectives by five times. Studies show that over 90% of this phosphorus is originating from non-point sources.

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There's a significant net water quality and environmental benefit to the TPM program as it requires a 4:1 offset. What this means is that for every kilogram of phosphorus that's added from a new or expanding discharge, four kilograms must be removed from a non-point source. Of course, in addition to phosphorus, other pollutants are removed, as well as wildlife habitat improved.

The South Nation clean water program is the link to transfer the funds from this waste water management to the implementation of non-point source projects.

I'd also like to take a couple of minutes this morning to talk to you about municipalities and safe drinking water affordability.

Full cost recovery for water and waste water infrastructure in some rural communities could be cost-prohibitive. Drinking water would be at risk because it might not be affordable. In these cases, the province needs to look at funding assistance to these municipalities. Rural municipalities have extreme financial pressures to meet current and future demands for water and waste water infrastructure.

South Nation watershed has surface and groundwater supplies that are at risk from our rural communities that have faulty septic systems or improper land management practices in hydrogeologically sensitive areas. Rural communities in our watershed will continue to require new water and waste water infrastructure. In some cases, it may be shown that full cost recovery would be cost-prohibitive for water and waste water servicing. The province will need to provide financial assistance to ensure a safe and secure water supply for these communities.

The village of Casselman, which is a municipality within our watershed, did not receive provincial funding for the waste water expansion for their developing community. In their case, they needed to adopt a TPM or total phosphorus management program. It was very important that they had the flexibility to incorporate this watershed program cost into their municipal water bill. If they were restricted from doing this, it may have negatively impacted their development and economy.

We do not know the future for water protection programs. As such, it is critical to maintain flexibility in safeguarding drinking water by allowing watershed programs to be an eligible cost under Bill 175.

At this time, I'd like to invite Archie Byers to come and say a couple of words on behalf of the municipality.

Mr Archie Byers: Good afternoon, Mr Chair, committee members. My first comment would be that, as mayor of the municipality of North Stormont, I am supportive of the necessity for the implementation of Bill 175 and Bill 195. As well, our municipality is very supportive of the total phosphorus management program that Ronda has just alluded to, and we have committed dollars to this program in the past. My concern is the full cost recovery for water and waste water infrastructure.

In North Stormont, we have three hamlets served by water and sewer, each of which serves approximately 200 dwellings. We have contracted with the Ontario Clean Water Agency, or OCWA, to manage and operate these systems. I feel we pay a premium for this service to get the expertise required to give our residents a level of comfort for their health and safety through the quality of water they are drinking.

Since the population of these hamlets is comprised mainly of retired and elderly people on fixed incomes, the many mandated extra costs to each facility would create an unaffordable situation for our residents. Larger operations could have comparable costs, but these would be divided among several hundreds or thousands of participants, creating much less of a cost impact per unit. Therefore, I request the province of Ontario to consider a substantial funding arrangement for small, rural water and sewer infrastructure.

I thank you for the opportunity to make this presentation today.

The Chair: Thank you very much. That gives us about two and a half minutes per caucus. This time we'll start with the government members.

Mr Dunlop: It's good to see you both here. Just so I've got peace of mind on this, has your conservation authority received money under the healthy futures program?

Ms Boutz: We are a partner with a submission from the Eastern Ontario Water Resources Committee. We're not receiving direct funding through the authority, but we are administering the program on behalf of five counties within eastern Ontario.

Mr Dunlop: Have you received any money from the Ministry of the Environment for the groundwater studies? I'm just curious.

Ms Boutz: I'm just trying to think. There is funding coming through for the new monitoring network that's being set up. We are in the process right now of establishing wells for that program.

Mr Dunlop: That's part of the \$12 million, I believe, that was announced last fall, and municipalities and conservation authorities are now working with that?

Ms Boutz: It could be. I'm sorry, I'm not as up to speed on that. I'm not dealing as much with the groundwater issue myself.

Mr Murdoch: I was just going to ask the mayor, is Ron MacDonnell in your municipality or Grey-Bruce?

Mr Byers: Very close.

Mr Murdoch: Yes. He's with the working group with AMO on the regulations for 195.

Mr Byers: He's within the United Counties of SD&G.

Mr Murdoch: I knew he was in SD&G, but I just didn't know which part.

Mr Patten: Could I ask you to explain for me the total phosphorus management program? Can you elaborate on it?

Ms Boutz: The total phosphorus management program comes under the Ontario Water Resources Act as a policy 2 receiver, which states that any water body that's degraded shall not be further degraded. That policy is in force in the South Nation watershed for phosphorus because we do exceed the provincial water quality objectives in most areas of our watershed and then up to five times at the outlet.

What that means is that any new or expanding waste water or industrial discharge that's looked at adding more phosphorus into the river system has to either meet a zero phosphorus increase through implementing some sort of technology at source or they have the option in the South Nation watershed, if it's proven cost-effective through their environmental assessment, to enter into an agreement, which is this total phosphorus management program, to offset the phosphorus that they're going to be loading as a new phosphorus loading. For example, if they're adding another 100 kilograms of phosphorus to the river system, then they are required through TPM to remove 400 kilograms from non-point sources. They pay a certain cost per kilogram and then the clean water program is the delivery mechanism, because the program's been in place for about nine years now and we have a proven track record for delivery. It made sense to use an existing program to help transfer the funding from the municipalities to the non-point source projects.

Mr Patten: So it's a major pollutant, but in your research obviously you must identify other pollutants that would then of course be addressed at the same time, or is it strictly related—

Ms Boutz: Yes, exactly. A lot of the projects that are being implemented are such that when you're removing phosphorus, you're also removing other nutrients, bacteria, pathogens. Sediment loading is a big concern in our watershed as well. It's a net benefit. That's why we fully support the phosphorus management program, and it is operating right now as a pilot in our watershed.

Ms Churley: I couldn't agree with you more that watershed and source protection programs need to be eligible under full cost recovery, which leads me to my second point, that I also agree with you—and I've been making this point all along—that there needs to be a capital infrastructure program to deal with the infrastructure deficit. Certainly when we're talking about adding more costs to full cost recovery, ie, watershed management, it's all the more important so that especially smaller and medium municipalities can actually afford the program. I'm sure you would support that that infrastructure money would be there.

I'm also glad you're speaking about source protection, protecting the water before it goes into the pipe, because at this committee level we've been dealing mostly with

the safe delivery and treatment of water, which is very important, but we're not spending much time talking about protecting the water at the source. Frankly, neither of these bills deals with it. The government says they will be bringing that bill forward later.

I just wanted to make those comments to you, that I support your positions on this. It was good to hear that today, so that all members of the committee can be aware that those are the kinds of issues we need to be looking at as well.

The Chair: Thank you very much for coming before us here this afternoon. We appreciate your comments.

MICHAEL CASSIDY

The Chair: Our next presentation will be from Mr Michael Cassidy.

Ms Churley: No offence, Michael, but I have to catch a flight back to Toronto.

Interjections.

The Chair: Welcome to the committee. Just a reminder: you have 10 minutes for your presentation this afternoon.

Mr Michael Cassidy: I have given to the clerk copies which I believe have been distributed. I'll try and be brief in the presentation and leave a bit of time for questions because my time is limited.

1340

The Safe Drinking Water Act is a long-overdue response to the Walkerton tragedy. I think it's welcome, but it's also a much weaker response to the problems that were identified in the Walkerton inquiry than we had been led to expect from the statements made by both Premier Harris and Premier Eves, both of whom undertook to accept all the Walkerton recommendations.

I want to identify three areas of particular concern. It's a big bill, and therefore I thought it would be best to maybe just focus on two or three areas. I hope other people talk about other areas.

The first is the right to know. In the Walkerton report, Judge O'Connor emphasized the need to make community access to information about drinking water a basic principle of water management in Ontario. He said in the beginning of volume two:

"My recommendations are intended to improve both transparency and accountability in the water supply system. Public confidence will be fostered by ensuring that members of the public have access to current information about the different components of the system, about the quality of the water, and about decisions that affect water safety."

Ontario regulation 495/00 has gone partway to ensure the provision of public reporting. However, Bill 195 makes no attempt to extend public access to current water information in the spirit of the Walkerton report. Although Bill 175 contains extensive requirements for reporting to the minister concerning cost-recovery and other matters, it makes absolutely no provision for public access to that information.

I've quoted a couple of sections from Bill 175, sections 15 and 16. Both of these sections could easily be amended to ensure that information provided to the minister is also accessible to the public. Bill 195 could be similarly amended.

I want to submit that the bills could and should be extended to enhance public notice about possible unsafe drinking water and require that consumer reports relating to water quality and water safety be made available to the public through the environmental registry or a dedicated electronic registry that is publicly available. These steps would be in accordance, I suggest, with the recommendations, and I've cited five of them—43, 49, 79, 80, and 86—of the Walkerton report.

The second point I want to speak about is the right to appeal. Bill 195 creates a right of appeal to the Environmental Review Tribunal. It uses language similar to the Environmental Bill of Rights, but when you look at the fine print you find that Bill 195 restricts the right of appeal to the point where it entirely excludes members of the public.

Section 123 lists certain decisions of the director which are considered to be reviewable and may be appealed to the tribunal. All of the matters involve decisions to reject, change, revoke or cancel a permit. No provision is made for public notice and comment on permit applications or for an appeal process such as that provided under the Environmental Bill of Rights.

I'll just cite the beginning of section 38 of the Environmental Bill of Rights. It says, "Any person resident in Ontario may seek leave to appeal from a decision whether or not to implement a class I or class II instrument" which has been posted on the environmental registry. "Any person ... in Ontario." That is not duplicated in Bill 195. There is no provision for public notice and comment on permit applications, and only an applicant or permit holder can appeal a reviewable decision to the Environmental Review Tribunal.

At that tribunal, according to section 126, the parties are restricted to the appellant, the director, and it says, "Any other person specified by the tribunal." It doesn't make it easy for the public to get there.

I recommend that Bill 195 be amended to be fully subject to Ontario's Environmental Bill of Rights, including rights to appeal and the right to seek an investigation under part V of the Environmental Bill of Rights.

I note that Justice O'Connor took notice of the Environmental Bill of Rights, assumed it would apply and therefore did not recommend that there be a right to sue in the Safe Drinking Water Act.

The third point I want to raise is the question about appeals to the minister. Bill 195 allows proponents, but again not the public, to appeal in writing to the minister from a decision of the tribunal on any matter other than a question of law. The public is excluded because this appeal right is only extended to a person who is a party to a hearing before the tribunal. So we go back to the fact that that's the applicant for a permit, or someone who

holds an existing drinking water permit or licence, presumably one that's being changed.

Section 131 of Bill 195 provides that "the minister may, if he or she considers it to be necessary for the purposes of this act, confirm, vary or revoke the tribunal's decision." The Environmental Bill of Rights has a provision similar to this one, but it's a provision that I submit should be changed if the integrity of the environmental approvals and public hearings procedures mandated by the EBR is to be preserved. I submit that applies in this case as well with Bill 195. The minister should interfere with decisions of the tribunal only in the clearest case where a tribunal decision is clearly incompatible with government policy. Better still, I would recommend that section 131 of Bill 195 should be eliminated.

The specialized expertise of a tribunal such as the Environmental Review Tribunal makes it specially equipped to deal with the complex scientific and technical issues that are routine in matters such as the safety of the water supply. Also, if the public is to have confidence in the integrity of such bodies as the tribunal, the government must demonstrate its commitment to the integrity and independence of the review and appeal process by declining to interfere with the decisions of tribunals—perhaps in all but exceptional cases, perhaps not at all. Frankly, as I thought about it putting this brief together, I thought it's better to allow the tribunals to occasionally go a little further than the government wants to go than to interfere with them in the unbridled way the minister has.

I want to conclude by bringing a specific example to the committee's attention. This is the appeal that's currently underway to the Minister of the Environment, and it relates to the appeal by OMYA (Canada) from a decision of the tribunal relating to a permit to take water from the Tay River near Perth. I appreciate that this permit concerns source water rather than drinking water, but I would remind the committee of the high degree of interest at the Walkerton inquiry and the subsequent report that was devoted to source water protection and watershed planning. Unfortunately, the two bills now before the committee do not, as I believe they should, address the inquiry's proposals on that issue despite the promise of the government to implement all of the Walkerton report's recommendations.

The implications for the town of Perth of this particular appeal, and it's a community of 6,000 residents and some 2,500 jobs downstream from OMYA's proposed water-taking, were very clear. OMYA's original application was for a permit to take a million gallons of water a day, which is an amount equal to the entire daily consumption of the town of Perth, both for residential and industrial use. Both the quantity and the quality of Perth's drinking water were among the issues raised during an exhaustive 35-day hearing before the Environmental Review Tribunal.

In the end, the tribunal gave a compromise ruling. It allowed the company some expansion by giving them a

third of the water they had asked for, but it also set conditions for public accountability and transparency in the water-taking. Many of the tribunal's conclusions anticipated the recommendations of part two of the Walkerton inquiry report, which occurred in the spring of this year, a few months after the tribunal reported.

With the OMYA appeal to the Minister of the Environment—and this is why I'm concerned about appeals to the minister—our group of appellants faces a situation where political considerations and even political influence may lead to a ministerial decision which directly conflicts with the government's commitment, made by both Premier Harris and Premier Eves, to implement all of the Walkerton inquiry recommendations. So we'll get the policies of the Premiers on one hand and we could get a contrary decision in the case of the OMYA appeal.

Obviously, we don't yet know what the minister will decide, but we have moved to a process where there are no external guidelines or rules for ministerial decision-making. This is like back in the days of the absolute monarchy. All citizens should be uncomfortable that this undemocratic situation is allowed to continue. The experience my wife and I and our fellow appellants are going through in eastern Ontario reinforces our belief that the sections of Bill 195 relating to ministerial appeals should either be dropped or be sharply amended to ensure that ministerial decisions on appeals from the tribunal conform to existing legislation and stated government policies. If this is not done, then I suggest that the integrity and effectiveness of the Environmental Review Tribunal and its connected process will be at serious risk. I think that's a very serious matter that this committee should bear in mind when you make your recommendations back to the House.

Thank you very much for having me here.

The Chair: Thank you, Mr Cassidy. We've actually gone a minute over. That's the advantage of handing out typed notes. We could follow along and saw you were getting close to the end of your comments. I wanted to let you conclude. Thank you very much for coming before the committee here this afternoon.

Mr Cassidy: Thank you. Since you are well underway and I was to appear for another 10 minutes—

The Chair: No, you were to appear for a total of 10 minutes, Mr Cassidy, and you've gone 11.

Mr Cassidy: Thank you very much.

1350

CANADIAN ASSOCIATION FOR
ENVIRONMENTAL
ANALYTICAL LABORATORIES
STANDARDS COUNCIL OF CANADA

The Chair: Our next presentation will be from the Canadian Association for Environmental Analytical Laboratories. Good afternoon and welcome to the committee.

Dr Rick Wilson: Thank you very much, Mr Chair and honourable members. I am Rick Wilson. I am executive director of the Canadian Association for Environmental Analytical Laboratories, abbreviated as CAEAL. My comments this afternoon are also made on behalf of the Standards Council of Canada. The Standards Council of Canada and the Canadian Association for Environmental Analytical Laboratories jointly deliver the national accreditation program for environmental laboratories. CAEAL, our association, conducts the site assessments and the proficiency testing, which is an inter-laboratory comparison program. The Standards Council of Canada grants the accreditations to the laboratories. More than 70 laboratories in Ontario are either accredited for drinking water testing or are applicants. Accredited laboratories in other provinces are also involved in testing Ontario waters.

Both of our organizations are highly supportive of the province of Ontario's efforts to improve protection for drinking water, and we offer the following comments in the hope that we can help you strengthen the draft legislation along the lines of the vision created by Justice O'Connor.

I have three major areas of comment. The first is that Justice O'Connor's recommendation 41, in his part two of the report, was very clear regarding accreditation. He said, "All drinking water testing should be performed only by accredited facilities." We note that section 59(2) of the act provides exemption for tests and persons that will be prescribed by regulations. We have noted this discrepancy and we wonder whether this is the direction that Justice O'Connor intended.

The second area concerns responsibilities that are identified for the accreditation body that will deal with drinking water testing. The responsibilities include reports to the director. We find that the directions are sometimes unclear and inconsistent. We have identified four areas where we'd ask for some consideration for change.

Section 61(2) requires a copy of audit reports to be provided to the director, but nowhere does it say that the accrediting body will be provided with the names of the laboratories to which this will apply. It may be appropriate for the director to notify the accrediting body when he issues, renews, suspends or revokes a licence, as section 72(5) requires with directions that he issues.

The second comment in this area: there is no definition of the audit report for drinking water testing which the accreditation body must supply. Our program provides periodic site assessments at least once every two years, from which there is a report, and mandatory proficiency testing twice a year, which also creates reports. It is our understanding that the ministry desires reports of both activities, yet we believe that the current wording does not make reference to nor create the appropriate legal requirement for us to be able to provide that information to the ministry. Unless it is "required by law," the client confidentiality requirements that govern these activities would make it impossible for us to provide the information to the ministry.

Our third comment in this area: we note that section 65 requires the accredited laboratory to notify water system owners and operators if the laboratory has its accreditation for a test suspended or revoked, but it appears to us that there is no requirement in law for the accreditor to notify the director. Section 62(1)8 provides that if there is an accreditation agreement, then the accreditor should report suspensions or revocations, but the accreditation agreement is not mandatory under the law; hence the accreditor may be bound by client confidentiality requirements not to release the notice. This is clearly not what was intended; hence it would be best to ensure that the law requires the accreditor to report the information to the ministry.

Our fourth comment: section 67(1) requires the accreditation body to report annually to the minister concerning its activities related to drinking water testing, yet the following section, 67(2), provides no such restriction on what the minister may require in a report. Obviously our recommendation would be that 67(2) should be modified to restrict the minister's request to areas that pertain to drinking water testing.

Our final comment concerns the standard of operation that is expected from the accrediting body. Essentially, we make the point that there is no such standard expected in this legislation and we would urge that there should be. Section 62 currently refers to a testing standard. It is our understanding that this standard would apply to the accredited laboratories. There is no mention of a standard that would apply to the operation of the accreditation program. The only absolute requirement for the accreditation body is in section 61, and that is that it fulfill its requirements under this act.

Accordingly, we renew our previous recommendation to the ministry that the legislation should include a minimum requirement, in addition to the others that are listed in section 62, that the accreditation body must operate the accreditation program in conformance with a standard, such as ISO/IEC Guide 58, entitled "Calibration and testing laboratory accreditation systems—General requirements for operation and recognition," or its updates. This document is the basic standard that is accepted worldwide for operations of laboratory accreditation systems, and it is the one against which accrediting bodies are customarily evaluated by international organizations. We believe that the government and the people of Ontario are expecting a world-class system, and it seems to us that the legislation should demand that level of performance from the accreditation body.

Thank you very much.

The Chair: Thank you very much for your comments. That affords us, since we're down to two caucuses, about two minutes per caucus for questions. This time we'll start with Mr Patten.

Mr Patten: Actually, I found this rather instructive. It came at the legislation from another angle and it seems to me the points you've made make perfect sense in terms of compatibility and integrity of notifications, the in-

formation that should be shared, what information should be contained in any reporting—if there happens to be any deviation from the standard—and the accountability, which is, I guess, your intent.

The only thing I would ask the research officer, if I might, Mr Chair, is in the drafting, whether the ISO guidelines are one of the benchmarks by which this is examined—or has it been?

The Chair: You're posing a question for the researcher to come back—

Mr Patten: Yes, I guess it would be legal counsel that would probably know that.

The Chair: In any event, we'll take the question back and seek to get an answer for you, Mr Patten.

Mr Patten: Yes, OK.

Anyway, I appreciate that very much. I'm not a lawyer, but as a standards expert, it seems to me it makes eminent sense and follows up somewhat on the questions that were raised by Mr Cassidy as well.

Mr Guzzo: Mr Wilson, a couple of quick questions. First of all, where do I reach your association? I know how to get the Standards Council of Canada, but I don't know where to reach you.

Dr Wilson: We're here in Ottawa. I'd be pleased to provide a card. I believe the clerk has all of my particulars as well.

Mr Guzzo: Thank you.

With regard to Justice O'Connor's recommendation 41, I know I'm in a minority in the House and in my own party, but let me tell you, I appreciate what he is saying there but I don't understand the evidence and I don't understand the background that gave rise to it. As I read the evidence that was placed before the O'Connor commission, and particularly the evidence with regard to other problems that were faced across Ontario—other Walkertons happened where no one died, no one got sick because the system worked. Public labs and private labs, in different cases, both functioned and functioned properly. Accredited labs and non-accredited labs, both functioned and functioned properly.

I have difficulty with this recommendation flowing from Walkerton. It may make a lot of sense, it may have a lot of merit, but it isn't supported in the Walkerton evidence as far as I'm concerned, because that wasn't the cause of what happened at Walkerton. What happened at Walkerton was different from other locations across Ontario that faced the same problem with public employees and a PUC acting improperly. You disagree with that?

1400

Dr Wilson: No, I don't disagree, but I don't feel that in the space of a minute I have an opportunity to debate with you the Walkerton inquiry and its findings.

The Chair: I'll be pleased to give you two minutes.

Dr Wilson: I paid a lot of attention to the Walkerton inquiry, and I was in fact part of the evidence. It is entirely true, as you say, that there was no problem identified with the particular laboratory analysis in question. However, it is obvious that after a couple of years of

looking at the safety of the system, including evidence that we put before him that accredited laboratories perform better and more accurately than non-accredited laboratories, he came to that conclusion. I guess all I am doing is saying that there is an indication that the government is going to implement these recommendations. This is one of them. The wording seems to me to be very clear. When he made that recommendation—the existing regulation that is currently in place allows some exemptions and he clearly disagreed with those exemptions.

In my view, all this act is doing is recreating the regulation that currently exists, which allows exemptions.

Mr Guzzo: I accept that. I accept everything that you say. I simply have difficulty drawing it from the evidence at Walkerton. We accredit doctors and lawyers, and I have no difficulty with that, but I have difficulty when I try and deduce it from the evidence at Walkerton.

Dr Wilson: Part of the evidence that I presented to him two times is a very clear indication from our data that accredited laboratories provide acceptable answers without errors more times. In other words, they perform better and more accurately than non-accredited laboratories.

Mr Murdoch: Just to put something on the record, I represent and I'm pleased to represent the municipality of Walkerton, or Brockton, as it's called now. You have some good concerns there. I have been assured by our staff that we are going to give them due consideration. We'll look at them, so they'll be talking to your organization.

Dr Wilson: Thank you very much. Our intent is to enable the legislation to allow us, without any questions whatsoever, to disclose our information to the minister and to the public without having our lawyer telling us, "No, we can't do that."

The Chair: Thank you very much. We appreciate your coming before the committee with your views here this afternoon.

PROVINCIAL COUNCIL OF WOMEN OF ONTARIO

The Chair: Our final presentation this afternoon is the Provincial Council of Women of Ontario.

Ms Marianne Wilkinson: Thank you. You're getting a little ahead of time, are you? I seem to have just made it.

The Provincial Council of Women of Ontario was founded in 1923, and it was formed to consider the problems that all the different cities in Ontario were having in taking things jointly to the provincial government. It was actually an affiliate of the National Council of Women of Canada, which was set up in 1893, so it's one of the older organizations around.

Through that entire time, the main focus has been on researching items and taking them in front of government to try to make positive contributions to laws and regulations and policies of government.

Just this week, on Monday and Tuesday, I was in Toronto and we presented our 79th brief, it think it was, to some members of the government and opposition parties. Basically, our work is to better conditions pertaining to the family, community and society. So we cover all aspects. We're not a women's issues group, we are a people group.

Water has been one of the issues that we've looked at for a long time. Around 1910, the Toronto Council of Women was one of the organizations that pushed for and got a water filtration plant. That's how long we've been looking at water issues.

In 1983, we passed a policy, and if the government of the day had listened and followed it through, probably the Walkerton tragedy would not have happened. We don't like coming here after the fact, but safe water has been a long-term policy of ours. In 1983, we urged the government to have a safe water act to ensure safe drinking water at the tap and to direct the Ministry of the Environment to conduct research into the methods of treating drinking water to reduce or eliminate organic and toxic inorganic material from water. Even at that time we had concerns about the water monitoring system, that there were insufficient monitoring systems, and we urged that a long-term quality monitoring system be put in place.

We also have urged that setting standards was not enough, that it was a responsibility of government to ensure that the standards are actually met. One of the concerns we have is, in looking at things, we're not sure how the government will keep involved, because this is a public policy issue and it needs the government to be the one that ensures that things are passed.

In 1989, we passed a resolution supporting strong action to identify sites of groundwater contamination and institute remedial measures. That was 13 years ago and yet neither of the bills that are in front of you today deal with groundwater contamination or groundwater policy. Treating water without getting at the source of the contamination, and then dealing with trying to clean it up, is like treating the flu rather than providing flu shots. Preventive measures are always better than taking action after the fact. Why not take this action by preventing and cleaning sources of contamination in water rather than just treating it after it is contaminated?

In April 1997, we sent a letter to the standing committee on resources development, asking that the government "heed the wishes of the citizens to ensure we have a safe and secure source of water through public ownership and regulation of this, a treasured public resource."

We are still very concerned that it be public ownership and public regulations that are to be put into effect. We are opposed to privatization of water systems, whether they be municipal or provincially run systems, because this is a resource that is too precious to take out of the control of the public. We don't want to see any weakening of the protection we feel is important to everyone. That was in 1997. It was after that fact that there had been a lot of reduction in the inspection systems. We all

know the tragedy that had happened—people lost their lives. That is, in this province, something that should never have happened.

Last year, in 2001, we again spoke up on water issues and urged again that something be done on groundwater contaminants. We had suggested involving conservation authorities, the ministries of agriculture, environment and natural resources. We advocated an enhanced role of the Ontario Clean Water Agency—we were concerned that it stay and be strengthened—and for a significant investment in dealing with this issue.

Somewhat related to this—it's not in these bills, but it relates to sale of water and the use of groundwater. We've been informed about large areas where there is large-scale removal of groundwater for bottled water plants. This then reduces the water table and has an impact that may cause other contaminants to go in. So you can't really separate all the different aspects of water. I haven't related this today but another concern of ours is bulk sales of water, diversion of part of the Great Lakes. Any of those things that change the ecosystem will have an impact on water sources. It should all be looked at as one package.

We do need to look at the discharge of chemicals and fertilizers and other contaminants into our rivers and lakes because that again affects the source of our drinking water. Here in Ottawa, of course, our water comes from the Ottawa River, so it is a result of runoff and various things. There are some contaminants that get into water that cannot be removed in treatment plants, so it's really important that we don't let them get there in the first place.

1410

We're a little concerned, in Bill 175, about providing a service in a full cost recovery plan. The bill isn't really clear about who is paying for what. We did, in December 2000, receive a letter from the province in reply to one of our letters. They sent us a copy of Operation Clean Water, an action plan about drinking water and groundwater protection. It's about a five- or six-page document. That included assistance to Ontario communities of \$240 million in support of health and safety infrastructure and a provincial groundwater monitoring network.

The present act doesn't deal with these issues, but it does deal with having total costs. The province is passing on huge costs to municipalities when they passed on to them all responsibility for this infrastructure. In the past they provided funds to enable municipalities to fund this necessary infrastructure. What we want to know is how they are going to be funded now. One of the members of our council told me they had read that the municipality of Lansdowne, near Kingston, worked out that it was going to be \$209,000. While that doesn't sound like much, for that little municipality it's a lot. They were getting funding of \$13,000, and they had no idea how they were going to afford to pay for it.

We're quite well aware that user fees are a regressive form of taxation and that they hit the poor hardest,

because everybody uses roughly the same amount of water but the poor have far fewer resources to pay for it.

We think that all society benefits from having a source of clean water, and we'd be interested in seeing an action plan at the provincial level on how the measures in these bills would be funded, which we're not aware of now.

I must say we are pleased, however, that we are moving forward on enhanced standards to have clean water, and that it is now a government priority. We urge you to immediately institute source protection, and to keep the provision and monitoring of water a public responsibility and not one to be farmed out to private interests where profit is a major motivator.

Finally, we would like to hear how these measures can be carried out without hurting the most vulnerable members of our society.

The Chair: Thank you very much. That gives us about two minutes per caucus for questions. I think Mr Murdoch has a question.

Mr Murdoch: Thank you for your views. I take exception to the second paragraph on your second page. It wouldn't have mattered what the province had or had in place if you've got people who don't do their jobs in a PUC that is publicly funded and publicly run. When they don't do their jobs, things like this will happen. I take a little exception to that.

Bill 195: right now there is a committee sitting with AMO—Norm Miller is on the same committee. We have about 10 people, a cross-section of AMO, sitting with us doing the regulations for Bill 195.

We're actually getting along really well. I think AMO is pleased so far with what we've done, and when the regulations come out, that will answer a lot of your questions in here. Then we'll go into the funding; we know that's going to come. We have to figure out how much this will cost out there in the province. There are a lot of little municipalities in my area that won't be able to afford some of the regulations if their systems are done. Maybe in some cases we shouldn't be forcing them to do what they have to do.

That's going to all come with the regulations. Then we're going to look at the funding with that same committee with AMO. It seems to be working quite well, and you know, once being part of AMO—I think that's the way we should go.

The other one you're concerned about is that we haven't done anything about the source. Well, that bill will come. You can't put the cart before the horse. We have a lot of studies out there. We're spending millions of dollars with conservation authorities and municipalities studying the source of our water. There's no indication out there how many wells we have, how many open wells—all that kind of thing. Some wells go right down into aquifers that are going to cause a lot of pollution. We have to get that data, and that's what we're doing right now. Then there will be a bill come forward.

I think we're doing it in the right manner. Rather than dumping everything in at once and having all kinds of

problems, I think we're taking very good action in the way we're doing this.

With all those things that are going on, I think most of your questions are going to be answered. You said this should be done before. Well, it looks like you probably started back with other governments; it's not just one government. To me, looking at your dates here, you've worked with all three governments and not been too satisfied. That's happened.

We're doing something, and I think we're doing quite well. We're well underway with the regs. Next, as I say, we'll start looking at the costs, and then there will be another bill to come out with the source.

Mr Guzzo: We could always use the same formula we used to take sewers to Kanata, when you were the mayor of Kanata. We could form a new regional government and tax the downtown core to bring the sewers out to the good people of—

Ms Wilkinson: I could question that, but that's not the issue today, Mr Guzzo.

Mr Patten: A little bit of history here. Welcome, Marianne. You've brought a number of very important issues that a couple of other presenters identified. The one about the groundwater and your observation of groundwater contamination and protection linked to other groups that talked about conservation authorities and about watershed protection and contamination. Both have said it isn't implicitly protected, but it was identified out of the Walkerton report, the source water protection and watershed planning.

One example that was identified today was the appeal on the permit that will allow half of the application for the Tay River, which is not a very big river. It's not the size of the Ottawa River and it certainly isn't the size of the St Lawrence. It's a very tiny river in many ways. The application that has gone forward would permit a removal of water that would rival the total usage of the

town of Perth and its 6,000 residents. I wondered if you had any involvement in that or whether your council had any comment on that particular application.

Ms Wilkinson: The council of women only deals with policies they have developed across the whole province. I have personal views on that, but the council itself has not got into that issue. We tend to look at things in a broader way rather than individual examples, although we will use the examples to illustrate what we are doing.

In that particular case, it relates to what we have said about large-scale reduction of water and wells and various other things. It's the same concept. It changes the ecosystem. We don't actually know exactly how it's going to change and it seems that these things are done rather ad hoc. Our feeling is that there should be an overall plan on how we deal with the water resources in the province, and that doesn't seem—I've read that it's coming. We read all the time that things are coming, but until they're there, we keep questioning them. That's part of our role, because we are an organization that spans all political parties. We are non-partisan in that respect. We're only interested in the communities.

Mr Patten: On the area you have identified, I think the minister himself said there was a plan to map the aquifer of Ontario, which I guess is a momentous task. However, it is in the works. It's absolutely, vitally important. I think the points you made related to that and its impact, in some cases, on enabling other contaminations to occur by virtue of the depletion of the aquifer or the groundwater. I think that is something down the road that we all have to consider. Thank you very much for your comments.

The Chair: Thank you, Ms Wilkinson, for coming before us this afternoon. We appreciate your comments. With that, the committee stands adjourned until next Wednesday at 3.30 back in Toronto.

The committee adjourned at 1418.

STANDING COMMITTEE ON GENERAL GOVERNMENT

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Mr Wayne Wettlaufer (Kitchener Centre / -Centre PC)

Substitutions / Membres remplaçants

Mr Sean G. Conway (Renfrew-Nipissing-Pembroke L)

Mr Garry J. Guzzo (Ottawa West-Nepean / Ottawa-Ouest-Nepean PC)

Mr Bill Murdoch (Bruce-Grey-Owen Sound PC)

Mr Richard Patten (Ottawa Centre / -Centre L)

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Clerk / Greffière

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Wednesday 27 November 2002

Journal des débats (Hansard)

Mercredi 27 novembre 2002

Standing committee on general government

Sustainable Water and Sewage
Systems Act, 2002

Safe Drinking Water Act, 2002

Comité permanent des affaires gouvernementales

Loi de 2002 sur la durabilité
des réseaux d'eau et d'égouts

Loi de 2002 sur la salubrité
de l'eau potable



Chair: Steve Gilchrist
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LEGISLATIVE ASSEMBLY OF ONTARIO

ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

STANDING COMMITTEE ON
GENERAL GOVERNMENTCOMITÉ PERMANENT DES
AFFAIRES GOUVERNEMENTALES

Wednesday 27 November 2002

Mercredi 27 novembre 2002

*The committee met at 1531 in committee room 1.*SUSTAINABLE WATER AND
SEWAGE SYSTEMS ACT, 2002LOI DE 2002 SUR LA DURABILITÉ
DES RÉSEAUX D'EAU ET D'ÉGOUTS

SAFE DRINKING WATER ACT, 2002

LOI DE 2002 SUR LA SALUBRITÉ
DE L'EAU POTABLE

Consideration of the following bills:

Bill 175, An Act respecting the cost of water and waste water services / Projet de loi 175, Loi concernant le coût des services d'approvisionnement en eau et des services relatifs aux eaux usées;

Bill 195, An Act respecting safe drinking water / Projet de loi 195, Loi ayant trait à la salubrité de l'eau potable.

The Chair (Mr Steve Gilchrist): Good afternoon. I'll call the committee to order for the purpose of continuing our public hearings on Bill 175, An Act respecting the cost of water and waste water services, and Bill 195, An Act respecting safe drinking water.

The researcher has asked me to draw your attention to the fact that each member has a copy of the interim summary of recommendations to date for both Bill 195 and Bill 175, as well as an answer to the question posed by Mr Patten down in Ottawa. You'll find those in front of you.

CONSERVATION ONTARIO

The Chair: Our first presentation this afternoon will be from Conservation Ontario. Good afternoon and welcome to the committee. Just a reminder, we have 15 minutes for your presentation. It's up to you to divide that as you see fit between either talking to us or taking questions.

Mr Dick Hunter: Thanks for the opportunity to speak to you, the standing committee on general government, regarding Bill 195, An act respecting safe drinking water, and Bill 175, An Act respecting the cost of water and waste water services.

I'm Dick Hunter, general manager of Conservation Ontario. These comments are presented on behalf of Ontario's 36 conservation authorities. On behalf of their

municipalities, conservation authorities manage watersheds in which over 90% of the provincial population resides.

For the record, along with other presenters here today, I and two other representatives from Conservation Ontario are members on the source protection advisory committee recently announced by the Honourable Chris Stockwell, Minister of the Environment. This committee is to advise the government on implementation of Justice O'Connor's Walkerton recommendations.

I wanted to take this opportunity to acknowledge the government's steps toward protecting Ontario's drinking water since the release of the Walkerton inquiry part one and part two reports. Conservation Ontario strongly supports the commitment to implement all of the Walkerton inquiry recommendations.

First, with respect to Bill 195, the proposed Safe Drinking Water Act, Justice O'Connor cited source protection as the first barrier in a multi-barrier approach to protecting drinking water. We understand that the government plans to proceed with Justice O'Connor's source protection recommendations through amendments to the Environmental Protection Act and related planning legislation.

Conservation Ontario is concerned, however, that source protection and watershed planning are not acknowledged in the proposed components of a Safe Drinking Water Act. We believe this is essential. We recommend that a statement of legislative intent be included in Bill 195 that refers to the multiple-barrier approach to protecting drinking water supplies in Ontario, with specific reference to source protection as the first critical barrier.

Moving on to Bill 175, the proposed Sustainable Water and Sewage Systems Act, Conservation Ontario continues to be concerned that watershed management is not identified as an eligible cost of full cost accounting for water and waste water services. Conservation Ontario supports the concept of full cost accounting, but it must include more than just the pipes and plants. As already stated, watershed-based source protection is the first barrier of a multiple-barrier system to prevent contamination of drinking water supplies. This first crucial barrier in the delivery of safe drinking water must be recognized in Bill 175 and potentially funded, in part, through municipal water and waste water rates.

It is clear that new mechanisms for stable funding of source protection, as envisaged by Justice O'Connor, are

required. Municipal water and waste water rates charged to consumers is one vehicle for funding source protection. Conservation Ontario remains committed to exploring other user fee mechanisms, so that there is equity in how all users of water pay for its protection.

At the same time, we recognize that in terms of equality there must be funding mechanisms to ensure that sufficient financial resources are available in those more sparsely populated areas of the province where local rates will be incapable of supporting the task at hand. Viable alternative funding mechanisms need to be further explored, and we anticipate that the source protection advisory committee will have a role to play in this regard.

However, Conservation Ontario sees Bill 175, the proposed Sustainable Water and Sewage Systems Act, as an immediate opportunity to enshrine in legislation watershed management as an eligible component of full cost accounting for water and waste water services. Through regulation, the source protection list of eligible watershed planning and management activities can be specified.

This is an opportunity for the provincial government to clearly indicate that it supports full cost accounting of the delivery of clean, safe water and that it places an appropriate value on that most precious resource—water.

Currently, at least five conservation authorities—Toronto region, Credit Valley, Lake Simcoe region, Grand River and South Nation—receive funding from municipal water and waste water rates for a range of watershed management activities and infrastructure related to source protection. For example, watershed management activities might include rural water quality programs and, as described to you by the South Nation authority at your Ottawa hearing, the total phosphorous management program that they've implemented in that watershed.

In addition, full cost accounting must include the cost of watershed infrastructure that provides the source of water supply or in fact improves waste water assimilative capacity of the receiving stream, including that infrastructure that is operated by conservation authorities on behalf of one or several municipalities. Individual conservation authorities have given and will give you examples of this situation at your other scheduled hearings.

Funding relationships that currently exist between some conservation authorities and their municipalities recognize the important and valuable link between watershed management and the most efficient and effective delivery of water/waste water services to the public. It recognizes that the cost of drinking water treatment and waste water assimilation will be reduced by and is heavily dependent on maintaining good quality, abundant source water.

Other jurisdictions also recognize this connection. One example that comes to mind is New York City, which has made a significant investment in upstream source protection in the Hudson River Valley as one way to save millions—in fact, actually, I believe it's billions—of dollars in downstream treatment.

Based on Conservation Ontario's submission to the Walkerton inquiry in March 2001, we are talking about a relatively minor incremental cost in per household costs of water. The submission estimates current delivery of watershed management for protecting drinking water supplies is approximately five cents per household per day and further estimates an additional four cents per household per day would be required to ramp up for adequate source protection efforts.

Recent consumer research suggests there is strong public support for the consumer incurring some additional costs to ensure safe drinking water in Ontario. According to a June 2002 Environics poll, 59% said they would find it very reasonable to be charged five cents more per day to ensure the safety of sources of drinking water and another 24% would find it somewhat reasonable. The respondents understood that the additional charge would not pay for improving or expanding water and sewage treatment facilities, but was devoted in fact to source protection.

The conservation authorities in this province feel strongly that the province and its member municipalities must not lose a valuable opportunity to utilize a valid and relevant beneficiary pay option for delivery of source protection. Exclusion of watershed management will ultimately undermine municipalities' abilities to finance source protection efforts in protecting drinking water supplies.

Conservation Ontario is not suggesting that this is the only source of funding, nor that it will work everywhere right now. We simply want to ensure that this opportunity is not lost and that the door remains open while other viable approaches are also explored.

On behalf of Conservation Ontario, we recommend that Bill 175 explicitly state that activities and infrastructure related to watershed-based source protection are eligible costs of delivering safe drinking water and that subsections 3(4) and 4(4) be amended accordingly.

The Chair: Thank you very much. That accords us two minutes per caucus for questions. As always, we'll start the rotation with the official opposition, Mr Colle.

Mr Mike Colle (Eglinton-Lawrence): Thank you for your presentation, Mr Hunter. Just in terms of where source protection starts, as you know, in Ontario the extraction of water for bottling purposes is permissible with a permit. There's no charge given. Would you consider that as part of where we should start our source protection?

1540

Mr Hunter: In terms of the charge for use of water?

Mr Colle: A charge or prohibition of that extraction in watersheds that are sensitive to that extraction potential.

Mr Hunter: Certainly it has to be all-encompassing, and bottled-water users, where in fact it doesn't draw down and doesn't have a negative effect on other users and water supplies, should be charged along with other users for that water, and we're into that in terms of some water budget work that's being done now. But the amount of water that comes into a system and the amount

of water that comes out tells us that in some areas we may in fact be overextended. Therefore, considerations, whether its bottled water or golf courses or other issues, are going to have to be considered in terms of potential reductions to put things back in balance. I don't know if that answers your question.

Mr Colle: Basically you would concur that that's part of our whole need to protect water at source?

Mr Hunter: Yes.

Mr Colle: One other thing: I know the conservation budgets were dramatically cut, in 1997 I think. Have those cuts in operating budgets been restored?

Mr Hunter: The budgets in some conservation authorities have returned, but through other sources of funding and through fees and other revenues. So a number of them have seen their revenues come back up or, in fact, the revenues that allow the expenditures of the authorities. Some of the smaller and medium-sized authorities are still probably at a reduced level from what they were.

Ms Marilyn Churley (Toronto-Danforth): Thank you for all the good work you do. I'm pleased you are here to give this presentation today. I just wanted to tell you, first of all, that I support your amendment that source protection should be part of full cost recovery. But that leads me to a concern I have; that is, full cost recovery is easy for us, sitting around the table, to talk about, but when it comes to real people paying the bills, as we're finding out with hydro, it can be a big issue, especially in smaller municipalities.

I have two questions—I have to be quick, I know. Would you support other levels of government having to come in as partners and paying for capital infrastructure costs to bring systems up to date, up to standard?

Secondly, I want to ask if you have any concerns about Bill 175 in terms of a clause in there that many of us interpret as allowing the government to step in and privatize a system. You know that a full cost recovery plan has to be brought forward by the municipality. If the government doesn't like it, they can impose their own solution. Of course, I'm concerned that might happen more and more. Given the difficulties—that's why the two bills converge here—of meeting the new standards and the cost that could be involved to the municipalities, privatization might seep in the back door that way. Do you have any concerns about that?

Mr Hunter: Just on the first point, in terms of our submission to Justice O'Connor, we indicated there needed to be a range of sources of funding in terms of actually bringing this solution together on a number of fronts. So while we've stressed user fees, certainly all levels of government need to be participants and players in that.

With respect to your second question, the conservation authority hasn't really adopted an official position relative to specific concerns or issues around privatization of systems. We're mainly focused in terms of the source protection side and how that gets funded and paid for. It's probably beyond our mandate in terms of that particular issue.

Ms Churley: Is my time up?

The Chair: Thirty seconds.

Ms Churley: I appreciate that, but it's something that I think needs to be of concern to all of us. I know it's outside your mandate, but you might want to make a look at that implication.

Mr Marcel Beaubien (Lambton-Kent-Middlesex): I want to talk about full cost recovery. When you mention full cost recovery, I think the public is somewhat confused, because if you get a bill, whether it's public utilities or water management for the municipality, somebody's got to pay for it. In other words, it costs so much to produce a litre or a thousand litres of water. Whether you get it on a bill or the municipality picks it up through their general levy, full cost recovery is there. There's a cost associated with treating water. Am I right or am I wrong?

Mr Hunter: I would agree with you. It's all part of the full cost.

Mr Beaubien: So, basically, when you're talking about full cost recovery, you're trying to bring transparency into the system. In other words, you want to more or less stress or point out to people how much it costs to produce potable water by associating so many cents per thousand litres or whatever the charge is.

Mr Hunter: I think it's accounting for the full cost and for them to be aware of that. The other part that I think will really come into play more significantly in the future will be the conservation of water. By properly valuing it and putting a value on it, folks are going to have to seriously look at the amount they use, what they use it for and how that affects the overall balance.

Mr Beaubien: I sometimes get confused—we talk about for-profit and not-for-profit. Cost recovery as opposed to what? Whatever you do, whether it's a building or water, there's always a cost associated with a product we produce. We can brand it for-profit or not-for-profit or full cost recovery or whatever, but somebody has to pay the freight, and at the end of the day that's the taxpayer or the consumer.

Mr Hunter: That's correct.

Mr Beaubien: In your opinion, what should people of Ontario pay on a daily basis? I mean, if I told people 15 years ago that you would pay a buck for a bottle of water today, they would probably have told me I was not very stable. How much should the average household pay for water on a daily basis—\$1, \$2? What is a fair charge?

Mr Hunter: I don't have that figure at the tip of my tongue. I could go back and see if we put that in the submission. I just don't have that figure right here that I could throw out.

From a layman's standpoint, and looking at that to some degree, I guess I look at how we value water and how much we pay for it as compared to, say, a day of cable TV or some other less essential service—and probably that's not an inappropriate equation. If you're prepared to pay \$1 a day for cable TV, certainly a dollar or two a day per family is not out of order, I wouldn't think.

I know there have been some estimates previously brought into play, during the O'Connor inquiry, that another \$365 a year would go a long way, even toward the infrastructure side, on water and waste water treatment, and that's what I was trying to get across with the four cents per day. A relatively insignificant increase can go a long way in terms of actual protection of the water at source.

The Chair: Thank you for coming before us this afternoon.

ONTARIO WATER WORKS ASSOCIATION

ONTARIO MUNICIPAL WATER ASSOCIATION

The Chair: Our next presentation will be from the Ontario Water Works Association and the Ontario Municipal Water Association. Welcome to the committee. If I could get you to introduce yourselves for purposes of Hansard, I'd be grateful.

Mr Rod Holme: I will introduce the group, if that's OK.

The Chair: That's fine.

Mr Holme: I'd like to start by thanking you for allowing us to speak. The Ontario Water Works Association and the Ontario Municipal Water Association are appearing before you jointly in overall support of Bill 175 and Bill 195.

My name is Rod Holme. I am chair of the special executive committee of both our associations. Next to me is Sharon Crosby, who is president of the Ontario Municipal Water Association. Tim Lotimer is chair of the Ontario Water Works Association, and Joe Castrilli is counsel to both our associations.

Our associations are representatives of the full range of professionals involved in the provision of drinking water in this province. The Ontario Water Works Association is a non-profit scientific and educational association made up of over 1,100 members. The Ontario Municipal Water Association represents over 160 water authorities supplying drinking water to over seven million residents of Ontario. Their historic focus has been legislative, regulatory and policy matters in conjunction with the delivery of safe drinking water in the province.

Both our organizations were parties to part two of the Walkerton inquiry, and since the end of the inquiry we have participated in, and prepared extensive submissions on, the post-Walkerton legislative and regulatory activities of the government surrounding safe drinking water. Most recently, Mr Lotimer, the chair of the Ontario Water Works Association, was appointed to the provincial government's new watershed-based source protection advisory committee.

We strongly support improved measures to ensure safe drinking water. We congratulate the provincial government on the introduction of Bills 175 and 195 in the Legislature and their referral to this standing committee. We also support the province's recent announcement that

it is moving forward on source water protection initiatives. We have studied both bills very closely and wish to offer constructive suggestions for their improvement.

We have provided to the standing committee pre-filed written material. Both organizations urge the standing committee to examine our recommendations with a view to introducing amendments to address the matters raised. We'd now like to, in the following comments, constitute key issues the standing committee should have regard to in considering both bills.

Ms Sharon Crosby: Under Bill 175, the revolving loan fund: the full cost recovery measures of Bill 175 do not address the transitional and possibly long-term financial difficulties some, particularly small, drinking water providers may experience in meeting increasingly strict regulatory requirements. Commissioner O'Connor recognized this problem as well. The OWWA and the OMWA urge the standing committee to adopt our recommendations for the establishment of such a loan regime in Bill 175. We acknowledge the existence of the province's new Ontario Municipal Economic Infrastructure Financing Authority, but we are concerned that it may not be a substitute for the loan regime we propose dedicated solely to drinking water.

1550

The scope of full cost recovery: the government should consider whether and, if so, to what extent an allowance for protection of watersheds and wellheads will be addressed in the full cost recovery provisions of Bill 175. Alternatively, the government should consider how to address these matters in the near future in other drinking water legislative initiatives.

Maximizing municipal revenue sources: OWWA and OMWA recommend that revenue source options be kept as broad as possible and that subsection 9(4) should be amended to remove the enabling authority to identify in regulation sources of revenue that a municipality cannot include in a cost-recovery plan.

Removal of provincial authority to cap rate increases: the province should not retain the authority to impose restrictions on the maximum amounts water rates may increase for particular customer classes as currently authorized in subsection 9(5) of Bill 175. If the province restricts the revenue of municipalities in this manner, it may compromise the ability of municipalities to achieve compliance with Bill 195.

Mr Tim Lotimer: As a result of our detailed review, we've made recommendations for amendments to Bill 195. The full list of these recommendations is contained in our pre-filed material on Bill 195. However, there are several we believe to be worthy of mention today.

(1) Require development of drinking water policy: Commissioner O'Connor recommended in the inquiry's part two report that the provincial government develop a comprehensive source-to-tap drinking water policy covering all elements of drinking water. That's in recommendation 65 as the "necessary first step in achieving safe drinking water." The province should clarify the status of the commissioner's recommendation

in the context of Bill 195 or other drinking water legislation to come.

(2) Government guidance to water authorities: many of the measures in Bill 195 require prior action by the provincial government. These tasks are important in light of the standard of care established in Bill 195. In the view of the Ontario Water Works Association and the Ontario Municipal Water Association, the commissioner's recommendations that set out the tasks to be performed by the provincial government should be included as duties in Bill 195.

(3) Scope of advisory council mandate: we recommend that the mandate of the advisory council originally identified by the ministry in their components document this summer, as modified by the list of recommendations of our two associations, specifically be identified in section 4 of Bill 195.

(4) Ordering municipalities to provide drinking water services or alternative water supplies to users of private systems: as set out more fully in our pre-filed material on Bill 195, these provisions should either be removed or amended to ensure that the costs of such actions are shared with the province or that municipalities are able to recoup the full cost of rendering such assistance.

In conclusion, Bills 175 and 195 are the foundation for the development of a sound regime of drinking water protection in Ontario. Adoption of the amendments proposed by our organizations for both bills would further advance the goal of the delivery of safe drinking water to the Ontario public.

We will be pleased to answer any questions from members of the standing committee.

The Chair: Thank you very much. We have about two minutes per caucus—a strict two minutes this time. We'll start with Ms Churley.

Ms Churley: Mr Chair, you'll be pleased to know that I have to make an urgent phone call in about two minutes.

I appreciate the fact that these are very complex issues to cover in such a short time. We can't even begin to get at some of the issues, but I appreciate your longer submission as well. There are some good recommendations for amendments there.

I just wanted to ask you to elaborate a little more on what your view is of full cost recovery and what role so-called senior levels of government should play in that, particularly around the infrastructure capital cost. As you know, when the government brought in new regulations, they had to extend the deadline for some municipalities to meet the new requirements because they didn't have the resources to do it, and that's always a concern.

Mr Holme: Our approach principally is that the same rules should apply to everybody. Capital costs ultimately have to be paid by consumers or taxpayers in one way, shape or form, but the municipalities should not be restricted in the sources of revenue they have available to them in meeting those capital costs. That's one of the recommendations we've made on Bill 175, that it not

restrict those sources of revenue, so that municipalities can do that.

In small systems, one of our major principles is that we want to see loans in favour of grants, but we recognize that in the case of the very small and remote systems there may need to be special case considerations, as Justice O'Connor recommended.

Mr Garfield Dunlop (Simcoe North): A quick question because you are professional engineers. I'm curious about the specific engineering degrees and courses the society might ask for when it comes to qualifications to deal with some of these water treatment facilities. I know engineering is very broad based, but can you explain a little more about that?

Mr Holme: Fair enough. We are not all professional engineers and our associations represent a full range of professionals involved. We use the word "professionals" in the broad term, in terms of dealing with operators, chemists, laboratory people, and management people as well—the full range. I think each one of those requires its individual qualifications. I know the Ontario Society of Professional Engineers will be appearing this afternoon and I believe they will have some specific comment on that area.

Mr Dunlop: On the specifics of each—

Mr Holme: Yes. We have some specific recommendations on training, but we recommend that the training be very broad. There's been a lot of emphasis on training of operators and certification of operators. We believe there should be training available for the full range of professionals, including the politicians who are in charge of the systems.

Mr Dunlop: Politicians?

Ms Crosby: Yes.

Mr Dunlop: That would be interesting.

Mr Holme: Yes, supported by the Ontario Municipal Water Association.

Mr Dunlop: Maybe we'll get into that a little later.

Mr Colle: The one intriguing part of your recommendations is number 5, the removal of provincial authority to cap rate increases.

As you know, with the hydro situation now the government has capped hydro per kilowatt hour at 4.3. I guess your submission is that if the provincial government has this power, they should therefore have to reciprocate in terms of what they force municipalities to do, because with the provincial government intervening to cap, they won't be able to essentially pay for potential investments in water service provision.

Mr Holme: Essentially, yes. We saw the danger in one part of the legislation requiring things to be done without the opportunity for municipalities to charge the rates to recover that. We also want to emphasize, because it was one of our recommendations in Bill 175, that water rates are not the only source of revenue. That was another recommendation, that municipalities have that flexibility to use a number of revenue streams in addition to the water rate itself.

Mr Colle: Can you give me an example? All they have basically is property taxes. What else could they really use?

Mr Holme: There are a number of different charges they could apply. Development charges are a very well-established way of charging for new facilities. Individual municipalities, different users—large users may have different requirements. A municipality could make arrangements directly with a particular user. We are talking here more than just individual residential users. There are commercial users, industrial users in any community that have different needs, special needs. The municipality needs to have the flexibility to be able to create charges that cover the service that's offered and the benefit to that user.

The Chair: Thank you for coming before us here this afternoon. We appreciate your comments.

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ONTARIO SOCIETY OF PROFESSIONAL ENGINEERS

The Chair: The next presentation will be from the Ontario Society of Professional Engineers. Good afternoon, and welcome to the committee.

Mr Alex Gill: Mr Chair, committee members, ladies and gentlemen, I would like to thank you on behalf of the province's 66,000 professional engineers for this opportunity to share with you our beliefs on Bill 175.

My name is Alex Gill and I am the director of public affairs of the Ontario Society of Professional Engineers. Joining me today is Robert Goodings, a licensed professional engineer with considerable experience in the design of waterworks. Bob has spent more than 50 years planning, designing and overseeing the implementation of water and waste water systems across Ontario. He spent 10 years leading one of Canada's most prominent consulting engineering firms, serving as president and chairman of Gore and Storrie Ltd, now known as CH2M Hill. Bob also served as chair of the Ontario Water Works Association and has been named an honorary life member of the American Water Works Association for his many contributions to the field. He still contributes to Ontario's water association in his role of conducting and publishing on their behalf the survey of water rates and operations benchmarking, which covers the supply systems that serve five million people in Ontario. He is the past chair of the society's board of directors and is currently the chair of our safe water task force.

As the advocacy organization for Ontario's licensed professional engineers, the Ontario Society of Professional Engineers is very concerned with making drinking water safer for our fellow citizens. Under the Professional Engineers Act, the first responsibility of licensed professional engineers is not to their clients or employers but to public safety. The 66,000 members of the profession take this responsibility very seriously and our presence here today reflects their commitment.

The duty of engineers to the public and their unique involvement in the planning, design, construction and operation of Ontario water and waste water systems has led the society to testify and make written submissions to part two of the Walkerton inquiry hearings. At the close of the hearings, we struck a safe water task force made up of some of Ontario's top waterworks experts. Over the past year, we have been working closely with the Ontario government to offer our profession's expertise in the practical implementation of the inquiry's recommendations.

Today, we will be providing feedback primarily on Bill 175. Our views on Bill 195 are a matter of public record and have been provided in writing on a previous occasion to the Ministry of the Environment. We have appended our written submission to the material we provided today. We will take questions at the end of our presentation on our views on both pieces of legislation.

As licensed professional engineers, members of the society are concerned with practical and responsible implementation of scientific principles. We strongly support both bills because we believe they will make Ontario's drinking water safer and the operation of our water and waste water systems more efficient and more accountable.

First of all, we commend the hard work done by the minister and MOE staff on both bills. They encapsulate a large portion of the Walkerton inquiry recommendations and we believe the government is moving in the right direction for all Ontarians.

I would now like to turn to my colleague, Bob Goodings, who will summarize our practical advice with respect to Bill 175.

Mr Robert Goodings: As Alex said, we are strongly in favour of Bill 175. We believe it contains long-overdue measures to make Ontario's drinking water and waste water systems safer and more sustainable.

I have many years of experience in the waterworks business and I have seen all manner of practice in how these systems are operated—some good, some bad and some unbelievable. Bill 175's overall impact will be to standardize how these systems are run and shift the decisions that are now made about them from the realm of the political to the realm of the practical. We applaud this shift in focus.

We believe Ontario's drinking water systems should move toward full cost recovery for a simple reason: safety and reliability should be the chief focus of how these systems are run.

We believe the main purpose of Bill 175 is to ensure that Ontario's municipal water and sewage systems generate sufficient revenue to recover the long-term operating and capital costs required for safe water and sewage operations. The bill requires a comprehensive system inventory and condition assessment and the development of a cost recovery and asset management plan. If enacted as proposed, we believe this government is taking a leadership role. It is telling municipalities and system operators that these systems must be operated in a

businesslike manner, and our fellow citizens deserve no less.

Over the past several decades, Ontario's hundreds of water and waste water systems have been funded through a combination of user rate income, development levies, subsidies from general municipal revenues, and grants and loans from other levels of government. We have also seen instances where revenues from water rates, particularly in the case of more mature systems, are used to subsidize other municipal operations.

When water system revenues truly reflect the costs of operating safe and sustainable systems, operators can focus on the relevant concerns: safety, accountability and long-term sustainability. If, for example, the operators of a water system find that they need to invest in new technology to make their system more reliable, this can be discussed on its merits and properly funded by the users of the system. It should not escalate to a lengthy debate about who can pay and how much, at the expense of safety.

We believe that grants from the province do not serve the long-term interests of water users. Grants often discourage engineering innovation, particularly in smaller systems. They often mask long-term problems with viability and safety. Grant money often flows to the systems that do not follow best practices in the industry. The systems built with grants are often built to meet the extent of the funding, not to meet the specific needs of the community, which may at times be more modest.

We concur with the Walkerton inquiry findings that exceptional circumstances may require the province to provide short-term grants or low-interest loans. We urge the province to consider the impact that such measures have and offer such assistance only where absolutely necessary.

I would now like to turn your attention to the important role that engineers play in water supply and waste water systems.

Our main recommendation to government and to this committee is that every water and waste water system operator in Ontario should be required to name a licensed professional engineer of record. This engineer can be either an employee of the system operator or an engineering consultant who has an ongoing relationship with them. The heart of this bill is the need for ongoing programs of comprehensive systems inventories, condition assessments and the development and oversight of cost recovery and asset management plans. This is, in my view, clearly engineering. We think that placing this requirement in legislation and subsequent regulations is necessary in order to make the provisions of both Bill 175 and Bill 195 work on a practical level.

In order for the reporting process envisioned in both bills to function properly, the information submitted to the ministry has to be reliable and in a format that can assist the province in their overview of each municipality's systems.

Unfortunately, many system operators simply do not have the expertise to prepare reports of the quality

required by ministry staff. We recommend naming a licensed professional engineer of record to take responsibility for the preparation of the operational plans and the infrastructure reports and to contribute to financial planning to meet the requirements of the two bills.

There are already numerous precedents in other Ontario regulations that require licensed professional engineers to sign off on reports and other documents to ensure public safety. Structural drawings, for example, must be sealed by a licensed professional engineer, who takes responsibility for their safety. The workers' protection act requires engineers to certify the safety of form work, trenches and temporary structures in construction. Ontario water regulation 459 requires licensed professional engineers to review operating systems every three years. We see the requirement that system operators name a licensed professional engineer of record as a logical extension of these precedents.

We know that some operators of smaller systems are concerned not only with their reporting requirements but with the ability of their customers to afford higher rates. A licensed professional engineer of record will be able to help these operators in meeting both their reporting requirements and advising them on how they can maintain reasonable water rates while meeting provincial quality standards.

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We strongly agree with the ministry and with other stakeholders that water quality is not negotiable. Ontario residents should be able to rely on a safe supply of drinking water at their taps. But from an engineering standpoint, water quality is only one of the components of what makes the price of water. The other component is the level of service.

A rural municipality, for example, may not require a water system that has the capacity to support a large industrial customer with full firefighting capabilities. We believe that the ministry should focus attention on clauses in the acts and regulations that ensure these water quality standards are met. But we feel strongly that these acts and regulations must allow local ratepayers, advised by their professional engineer of record, to determine their level of service. This should allow them to pursue innovative engineering options to meet water quality standards and keep the costs within their ability to pay.

I would like to offer a final comment on the issue of water rates in many communities. For years, water rates have been set by considering what a few customers on the bottom of the income scale can afford and then using that determination across the system. The water supply industry has, for years, called these rates "lifeline rates." While the intent is noble, the practical outcome has been to starve systems of needed investments, potentially compromising safety and undermining the financial viability of the systems that are the cornerstones of our communities.

In a study I conducted on water rates for the Ontario Water Works Association, I found that only a handful of systems would be challenged by raising their rates. In the

case of many of these systems, their base rates were below real cost, often in the range of \$30 per month per household for both water supply and wastewater systems. Even in these examples, a \$20-per-household-per-month increase in rates would allow the system operator to invest hundreds of thousands of dollars each year on infrastructure.

We just have a few additional pieces of information about Bill 175 before we answer any questions you might have.

Our safe water task force has identified a potential problem with a lack of public consultation on local financial plans and infrastructure reports. The bill makes no mention of whether system operators will have to hold public consultations with their customers before submitting reports to the ministry. We would suggest that unless this is made a requirement, the ministry may be subject to appeals from local stakeholders with concerns about the plans and the reports. This could gridlock the approval process, so we would urge the ministry to consider this possibility.

Finally, we believe that the government must rebuild engineering expertise on its staff in order to meet its new commitments. We were heartened by the government's commitment with its 2002 budget to expand technical knowledge within the bureaucracy. While we believe it is essential to have licensed professional engineers of record working with system operators, we also believe their role can only be more effective if their counterparts in the various ministries speak the same language and have the same level of engineering expertise.

Alex, I'll leave it to you.

Mr Gill: In conclusion, we'd just like to thank the committee members for their time today. We're reiterating our support of both Bill 175 and Bill 195. Our members, 66,000 professional engineers across the province, look forward to making additional contributions, both in the regulatory process and in the new roles they may have in duties prescribed in the acts and the subsequent regulations.

We would now be willing to take any questions.

The Chair: Thank you, but unfortunately you've engineered your presentation in such a way that you have used your full 15 minutes. Thank you, though, for your very detailed presentation before us here today.

RON ROBINSON LTD

The Chair: Our next presentation will be from Ron Robison Ltd. Good afternoon, and welcome to the committee.

Mr Ron Robinson: Good afternoon, Mr Chairman and members of the committee. Just to let you know, you're actually paying \$1.50 for a small bottle of water. That's \$3 a litre, which is four times what we're paying for gasoline.

My name is Ron Robinson. I have a construction company that performs heavy civil works such as excavation, sewer and water main, roads, parking lots, construction

for municipalities, industrial, commercial and institutional clients as well as private developers. We've been in business for over 44 years and currently employ 95 people.

Our service area is primarily the municipality of Durham, which includes Pickering, Ajax, Whitby, Oshawa, Clarington, Scugog, Uxbridge and Brock township. We also service extended areas to the north and east, including the city of Kawartha Lakes, Gary's hometown of Peterborough, Port Hope and Cobourg.

As mentioned, our company is actively involved in both the construction and rehabilitation of water and sewage systems on both a planned and emergency basis, backing up municipalities. I am very supportive of Bill 175 and believe that it is long overdue.

This legislation is necessary to ensure that Ontario's water and sewage systems are financially and environmentally sustainable. In addition, the bill is important for public health and the general health of our society.

Currently we are faced with a significant water and sewage infrastructure deficit that we must begin to address. Our business has experienced an increased number of events that have drawn me here today to express my concerns. For example, when we flush and chlorinate our water mains, we are required to draw in domestic treated water from the existing water pipes. On hot days in the summer, such as the days when our beaches are posted closed, we find that the treated water entering our system from the municipal source is of a quality below the criteria for which we are testing the new mains.

We also work on combined sewers, where both the sanitary and storm sewers combine into one pipe, thereby necessitating the costly and needless treatment of storm water. Worse, when a storm does occur, treatment systems can overload as a result of increased volumes of storm water combined with the normal sewage flows and results in the bypassing of the treatment process and the dumping into our environment, ie, adjacent lakes and rivers.

We are also experiencing significant encrustation or build-up on the interior lining of the existing water mains. As you may see, that restricts the flow. As well, numerous water services have become pitted and are leaking as a result of corrosive soil. To visualize this, I have attached to my written presentation a cover page that vividly portrays the net result of the examples I have described. We, as taxpayers and consumers, are presently paying to treat water at the source, but how much of it is getting to the consumer and how much is being wasted?

Similarly, in our aging sanitary sewer systems, pipes are deteriorating with age, cracks occur and sewage intended for the treatment plant exfiltrates from the pipe through the openings and into our environment. This is especially critical if it's in the vicinity of a water source such as a municipal or private well.

What is the solution? I believe that mandated full-cost pricing and accounting legislation is a significant part of the solution to upgrade our clean water infrastructure while protecting public health and the environment. It is

also a means to stabilize the business cycle and planning for all parties involved. As a result, I wish to commend the government for having the resolve to finally move toward implementing this policy.

Unfortunately, sewer and water mains are taken for granted. They're buried underground, and do not garner the electoral vote when a municipal politician up for re-election weighs the merits of replacing an aging and deteriorating sewer or water main on a particular street, perhaps not in his riding, versus a new arena, library or park—the old adage “Out of sight, out of mind.”

Given such, I emphasize the importance of the corresponding legislation that requires municipalities to have dedicated reserve accounts. Also important, but not presently included in the legislation and should be considered, are the inclusion of mandatory full-cost pricing; a specified compliance date with an allowable and reasonable phase-in period and transitional funding, where required, through the existing OSTAR and Green Municipal Infrastructure Program; and, a requirement that usage be metered to promote conservation as well as the principle of user-pay.

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As a reminder, additional support for Bill 175 is found from someone much wiser than I. Justice O'Connor's report on Walkerton says, “In my opinion, if passed into law, the act will address many of the important issues that I discuss in this section. The requirements for a full cost report and cost recovery plan, as generally expressed in the proposed act, are in my view appropriate.”

In closing, I would like to express my sincere appreciation for allowing me to address my views, and will attempt to knowledgeably answer any questions you should have. Thank you.

The Chair: Thank you very much. That affords us just over two minutes for questions. This time we'll start with the government caucus.

Mr Beaubien: Thank you very much for your presentation. I'm starting to age myself, so when you said, “The requirements for a full cost report and cost recovery plan, as generally expressed”—I think Justice O'Connor mentioned that—I fully agree that we should look at full cost recovery. However, having said that, I think in your presentation you mentioned that we are currently faced with a significant water and sewage infrastructure deficit that must begin to be addressed when we look at combined sewers, storm and sanitary sewers, leaking water lines. There are many municipalities in the province of Ontario; you're quite right that “out of sight, out of mind” seems to be the order of the day. So consequently, the infrastructure—namely, the water and sewers—has not been upgraded or maintained over the past 20, 30, 40 years in some cases; in some cases even longer.

When we talk about full cost recovery for a municipality that still has combined sewers and old infrastructure water lines, how is this municipality ever to reach full cost recovery? How are they going to do it? There's only so much—maybe it's a buck 50 for a bottle

of water, but I don't know what the water and sewage rate would be in the community. If they forgot about dealing with their infrastructure for the past 30, 40 years, how are we going to resolve the problem overnight?

Mr Robinson: I think there are municipalities presently that have implemented policies, such as the region of Durham where I'm from. They've started that procedure and they're getting there. It's going to happen over five to eight years; the standard has to be set that they have to get there. We can't allow leakage into our environment. You can't trade that off.

Mr Beaubien: But where are they going to find the money? I look at my own municipality. We've got the third-oldest water treatment plant in Ontario. It was built in 1896, but it's been well-maintained. It's been upgraded and so has the infrastructure. So it's not a financial burden to the municipality, because we've been on full cost recovery with water and sewer for the past 20 years.

Mr Robinson: I would disagree. You're paying for that because you're having breakages. We're going in and doing those repairs. If you track those costs versus the cost of replacing it, you can get there. You'd be surprised.

Mr Colle: Just to continue with what Mr Beaubien was saying, I think every municipality in Ontario is different. The challenges are different. Look at the city of Kingston, for instance, with its limestone foundations that cause constant breaks in their water mains etc. Should there be anything in this legislation to possibly take into account a northern situation or a place like Kingston or an older municipality where there are peculiar circumstances? Should that be taken into account, or is there anything in the legislation to take care of those demanding local municipal issues?

Mr Robinson: In the full cost pricing there is a financial dollar value for replacing sewers. If the life-cycle is 25 years that the municipality establishes, you're going to set aside a certain amount of money to replace those sewers. Again, you have this five-year, maybe eight-year transitional period to start reserving the money for that. But they can get there. For certain municipalities that can't afford it, yes, I believe there's going to have to be some transitional funding to get them up to the standard. Certain municipalities are there now, but the rest of them may need some help to get there.

Mr Colle: So one size can't fit all. That's what I'm trying to get at. In other words, the one-size approach is not going to work for everybody.

Mr Robinson: The one-size standard that they have to get to, yes. The time frame that may be allowed for them to get there may vary.

Ms Churley: Thank you for your presentation. I like your graphic. That really tells it like it is in terms of waste and the need to conserve.

Garfield is going to hear this once again, but I have been down in the sewers—I have. People joke about it here, but I'm happy to take you down in the sewers with me. In fact, I've made a recommendation that this com-

mittee actually suit-up and go down and see for ourselves what these sewers look like. It really is quite amazing, quite shocking when you get down there and see. Most people, including politicians—I think I'm an exception—don't really have any idea what kind of bad shape they're in. You and several others have come, and some people have brought in pipes to show us, but we do need to go and take a look.

I just want to make the comment that there are a lot of questions around full cost recovery and what it means and how different levels of government should be involved in that. I just want to point out that I think we need to take a very good look at how to divide the funding and what's fair funding.

One of the things that Justice O'Connor pointed out—there are many things, and we all cherry-pick to some extent. In light of what he called the restructuring, for instance, by this government—we call it downloading social services costs—he said that is adding even more burdens onto the municipalities, and the government needs to review that. I think we need to have a really good look at what municipalities are now paying for and perhaps restructure some of those social services costs up again.

Mr Robinson: Yes, but you can't allow a different standard for a little town like Bobcaygeon, near Peterborough, to have leakage into their environment and Toronto or Burlington to have a different standard.

Ms Churley: Yes, I agree.

Mr Robinson: It's got to be the same.

Ms Churley: It's got to be the same standard. We have to make sure everybody has safe water to drink and therefore it's important that all three levels of government sort out—there should be full cost recovery but there needs to be capital funding to get these systems up to standard.

The Chair: Thank you. We appreciate you coming before us here this afternoon.

ONTARIO CONCRETE PIPE ASSOCIATION

The Chair: Our next presentation will be from the Ontario Concrete Pipe Association. Good afternoon. Welcome to the committee.

Mr Paul Smeltzer: Good afternoon, Mr Chair and members of the committee. My name is Paul Smeltzer. I'm the executive director of the Ontario Concrete Pipe Association. In addition, I'm a professional engineer registered in Ontario, with more than 22 years of experience in Ontario's infrastructure industry.

The Ontario Concrete Pipe Association is an industry association which represents precast concrete drainage product manufacturers in Ontario, and we are pleased to have this opportunity to present our views on Bill 175, the Sustainable Water and Sewage Systems Act.

The Ontario Concrete Pipe Association was incorporated in 1957 and, as a non-profit industry association, is composed of producers of concrete pipe, maintenance holes, box culverts, box sewers and precast concrete

specialty products. Our products are used by the public and private sectors in transportation, water and sewer and major infrastructure projects. We have five producer-members here in Ontario, representing more than 95% of the precast concrete drainage product industry.

Our producer members operate facilities from Windsor to Ottawa to Sudbury. In addition, we have a number of supplier members which provide goods and services to our producer members and they are located throughout Canada and in the United States.

Our members directly employ approximately 750 men and women in high-skilled industrial manufacturing jobs. The supplier industries employ approximately 3,500 additional workers.

Collectively, we represent almost 50 years of participation in the growth of Ontario's economy by providing high quality materials used in the building of safe, long-term infrastructure across this province. Thus we have a keen interest in the state of the infrastructure in Ontario and in Canada.

The OCPA has a long history of working with industry, government and research organizations such as the NRC and Ontario's universities to improve the quality and performance of precast concrete pipe products used in our infrastructure, and to develop appropriate legislation and standards for the industry. Our producers have made significant investments in Ontario and are the best pipe producers in North America.

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As significant players in the provision of underground infrastructure, we are committed to the maintenance, replacement and expansion of the province's vast network of water and waste water systems. We are therefore very supportive of Bill 175, because we believe the financial sustainability of the infrastructure is at stake and the people of Ontario need to know that government is prepared to show leadership in maintaining a plentiful, healthy water supply and modern waste water treatment. Ontario cannot afford another Walkerton.

This legislation, as well as the Safe Drinking Water Act, the Nutrient Management Act and the impending watershed management and groundwater protection legislation, are important tools required to ensure Ontario's water and waste water systems are financially sustainable, good for public health and environmentally friendly. Currently, we are faced with a critical need to invest in our water and waste water infrastructure. Therefore, affordability is an issue.

The association, and I personally, believe that the province is moving in the right direction relative to our underground infrastructure. This is important, as over the past several years we have seen our infrastructure deficit in Ontario increase to the point where there is a backlog of needs of some \$1 billion. Reports published by the National Water and Wastewater Benchmarking Initiative, which represents more than 80% of Canada's population, states that the reinvestment rate for waste water systems is 0.6% per year, and the reinvestment rate for water systems is 0.7%. This reinvestment rate translates into a

service life that we need to have for those pipe systems of 140 years for water and waste water. Even concrete pipe can't do that. This, at a time when Canada has among the lowest water rates in the world and is the second-highest water user per capita in the world.

Prior to my joining the OCPA, I was an engineer with the region of Niagara in the environmental services division, with responsibility for water and waste water. Annually, during my budget presentation, I would report on the comparison of water and waste water costs to other household utilities. Without fail, water would be the lowest-cost utility, and waste water would be the third-lowest-cost utility. Even with increases in water and waste water rates of, as I've heard reported, \$2 to \$6 per month, the water and waste water systems are affordable. Fully funding these systems simply takes a public will to make it so.

Consistent with Justice O'Connor's recommendation, we are proponents of full-cost accounting, full-cost pricing and user-pay principles. We believe it is the only way to secure the much-needed monies for replacement or upgraded infrastructure and to protect public health and the environment. We want to commend the government for moving to implement this policy. User-pay will ensure consumers are aware of the value of water and waste water services and will make them accountable for their habits. We support these aspects of Bill 175 and are particularly pleased that there's a section in the legislation that requires municipalities to have dedicated reserve funds.

My association is aware that the Ontario Sewer and Watermain Construction Association has made suggestions for strengthening the bill, and we support these. However, I'm not going to present those here today. I have a couple of issues I would like to raise and then I will be done.

Our association is concerned about the promulgation of regulations and the definitions in the proposed act. We believe the legislation could be strengthened if more direction was given in the legislation and less reliance was placed on regulations. In addition, more guidance should be provided for municipalities on full cost services and the cost recovery plan by expanding on their definitions and leaving less interpretation by municipalities.

We believe the components of these plans should be exactly the same for every service provider in Ontario. This will help to ensure a level playing field. Consumers will know what they're paying for and municipalities across the province will use identical costing methodologies. As a service provider, municipalities will be able to compare the management of their systems with other operators and ultimately gravitate toward the best practices for water and waste water. The implementation of best practices will improve the service providers' ability to serve their customers in an efficient and economical manner.

Organizations such as the Ontario Centre for Best Practices and the National Guide for Sustainable Municipal Infrastructure currently exist for the purpose of

developing and distributing best practices, and will be invaluable in getting that message out. By requiring all municipalities to adhere to the same accounting methods, the consumers will win.

Mr Chairman, those are my comments. In summary, we wish to reiterate our support for Bill 175, the Sustainable Water and Sewage Systems Act, and urge the committee and the Legislature to consider our suggestions for amendments. The direction proposed is the right one for our time. Thank you again.

The Chair: Thank you very much. That leaves us two and a half minutes per caucus.

Mr Colle: Mr Smeltzer, with your municipal experience, I just want to ask you, what precludes a municipality from setting up a dedicated reserve fund and then tapping into it when there's a shortfall in revenues and they want to keep taxes down? Does the legislation stop municipalities from dipping into the dedicated fund?

Mr Smeltzer: If you read the legislation word for word, yes, it would. But treasurers are incredibly creative.

Mr Colle: I've seen it happen many times.

Mr Smeltzer: They are able to skip around it; I've seen it happen as well, Mr Colle. That happens, and I think one of the things we'd like to see in the regulations is that better definitions be given for what all the costs are or what all the items are related to water and waste water services, and that treasurers not be given that kind of latitude.

Mr Colle: The other thing I want to ask about, another trick I've seen, let's say a manoeuvre that treasurers use at budget time, is that they will raise water rates to basically mask a rate increase for taxes. But the rate increase in water never goes to water infrastructure; it goes to pay for something else or to keep taxes down. Have you seen anything in this legislation that would preclude that from happening?

Mr Smeltzer: Nothing in the legislation. Hopefully the regulations will handle those things.

Mr Colle: I'll be looking for that. Thank you.

Ms Churley: Thank you for your presentation. Can you provide more details, in this short time, on wanting more detail in the bill, as opposed to being left to regulations?

The minister was in Ottawa with us for a while and several deputants made that point. He argued ferociously that that couldn't be done in advance because the municipal systems are so different that it would be impossible to put within this bill all of the rules, that it would have to be worked out later, I guess piece by piece, taking into account different municipalities' situations. I'm not necessarily supporting his argument; I just want to know what your view is on what should be more clear in here.

Mr Smeltzer: I would agree that there are items that need to be included in the legislation, from our perspective. I would revolve those around the definitions of full cost pricing, full cost accounting, and identify all of the components that are required within those two items

and actually go through and work with municipalities and understand what each one of those is and what the costs are and then include that in the legislation.

Ms Churley: So you would suggest, instead of rushing to get this passed in this session, which is going to be over relatively soon, doing more work on the bill and—

Mr Smeltzer: No. It has to be passed now.

Ms Churley: Right now? Because what you're suggesting would have to be done very quickly, over the next week or two.

Mr Smeltzer: But that information exists.

Ms Churley: So you think it can be done very quickly?

Mr Smeltzer: Yes, I do.

Ms Churley: OK, thanks.

Mr Dunlop: Thank you very much for your presentation. It's really interesting in these hearings to see the sewer and water guys get out, because I guess—

Mr Smeltzer: I'm a sewer guy; I'm not a water guy.

Mr Dunlop: There are a lot of water guys here too.

Mr Smeltzer: I haven't been in the same sewer as Ms Churley, though.

Mr Dunlop: Obviously you have a great deal of interest in this and you've had a great representation across the province in both the sewer and water. I'm sure when you see the next deputation, the Association of Municipalities of Ontario—they'll deal with those creative treasurers, when we get to those.

I just wanted a quick question, though. The technology that's used in concrete piping today—obviously things have changes over the years. Can you give us a little bit of background on some of the changes you've seen and how the quality has been upgraded?

Mr Smeltzer: The major change we've seen over the last, say, 30 years is in our jointing systems. Concrete pipe that's been in the ground for 50, 60, 70 or 80 years will leak sometimes. What has really occurred is that gasket technology and the way concrete pipe is put together is a lot better now, and we don't see that kind of infiltration. That's really due to the manufacturing processes used now—a lot more robotics; the tolerances are a lot lower than they used to be. Just as every other industry has improved how they do things, so have we. Those are the biggest changes we've seen in the last, say, 30 years.

Mr Dunlop: Mainly in the coupling, how they join together.

Mr Smeltzer: Yes.

The Chair: Thank you. We appreciate your coming before us here this afternoon.

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ASSOCIATION OF MUNICIPALITIES OF ONTARIO

The Chair: Our next presentation will be from the Association of Municipalities of Ontario. Welcome back to the committee.

Mr Ken Boshcoff: Thank you, Steve. Good afternoon. I'm Mayor Ken Boshcoff, from the city of Thunder Bay. I'm also President of the Association of Municipalities of Ontario. With me is Nicola Crawhall, who is our senior policy adviser, with specific expertise in water and related matters.

Thank you, Mr Chairman, for the opportunity to share our comments and concerns on what we believe are two of the most significant pieces of legislation for the municipal sector in recent years. Your committee has a daunting task to understand the long-term implications of Bills 175 and 195, and I hope that my comments today will assist you in your work.

AMO is here representing its membership, almost all of Ontario's 447 municipalities.

As your committee considers these two pieces of legislation together—and I think it is important to consider them together—remember that there remain pieces of this overall provincial plan for drinking water that have not yet been revealed by the government. This puts you—and us—at a distinct disadvantage. We still don't know what the government's financing strategy for water and sewage works looks like. This essential part of the plan has been delegated to SuperBuild to develop, and so far with little consultation with stakeholders such as AMO.

So our first request to the provincial government is this: before passing these two pieces of legislation, provide municipalities and the public at large with the full plan, including the province's financing strategy and future plans to reorganize the water sector. Only then will we be in a position to comment in a truly informed and comprehensive manner.

The business of water delivery is not segregated; it is holistic. So we are disappointed that we are dealing with only a few pieces of the puzzle. But given that we don't have all the information, I will focus my comments on the first piece of legislation at hand; that is, the Safe Drinking Water Act. There are many small changes that are needed that AMO will submit in writing prior to clause-by-clause review. Today, I will focus on the big issues.

The first is the way this piece of legislation changes the relationship between the Ministry of the Environment, municipalities and private water system owners. As you may know, with regulation 459, the drinking water protection regulation, costs and requirements increased dramatically for both public and private systems, particularly smaller ones. These changes have had the effect of scaring off private water system owners. It has caused them to abandon their systems and has prompted an explosion of well drilling in Ontario by individual households to avoid the regulatory requirements.

This piece of legislation handles this dilemma in two ways. First, under section 49, the legislation would require municipalities to provide consent to all existing and new private water systems. The consent would be based on the financial liability the private system poses to the municipality in the event that the system fails or the own-

er walks away. The legislation allows municipalities to require a financial assurance agreement from the water system owner to protect the municipality from footing the bill in these instances.

We have two principle concerns with the consent and financial assurance requirements as they are proposed in this legislation.

First, there is little guidance on which to base the municipal consent. We expect that when municipalities refuse to provide a consent to a private system owner or a developer, that municipality could be taken to court, particularly if the proponent is willing to sign a financial assurance agreement, but the municipality still does not want to assume any liability risk. It is unclear why municipalities are to be put in such an awkward position.

Our second concern is around the municipal financial assurance agreement. It could result in 447 municipalities developing their own financial agreements—a patchwork of competing financial assurance regimes throughout Ontario. This is clearly not desirable from a municipal point of view and we suspect from a developer's point of view. We believe there are other ways to provide financial assurance, for example, through a centralized provincial regime or through a private company, like other types of insurance.

Individually, municipally run financial assurance schemes are administratively onerous, needing a letter of credit every year for each system. This is not an efficient way to proceed. A more streamlined, centralized process is required.

There also seems to be a lack of consistency among the various requirements under the Municipal Act, the building code and the plumbing code with respect to municipal approvals for sewage and water systems. We need these various pieces of legislation to be consistent so that municipalities, the province and private citizens are clear on what is required of them.

The financial assurance consent provision appears to be a simplistic solution to a very complicated problem, one that has not been thoroughly thought through and one that will prove problematic.

The second part to this issue of private systems management is contained in a series of sections in the act that must be considered together: sections 106, 109 and 110. It goes like this:

Under section 106, if there is an emergency situation involving either a public or private water system that poses an immediate health and safety risk, the MOE may negotiate with the Ontario Clean Water Agency or another agency to take over the system. This is a negotiated agreement, with full payment to the interim operator.

Under section 109, the MOE may appoint an interim operating agency in the event that a municipal system or a private system has failed to meet the regulatory requirements or has been abandoned. Again, in this situation, the agreement between the MOE and the interim operator is negotiated and full costs will be paid to the interim operating agency.

Then there is section 110, which for some inexplicable reason allows the MOE to order, rather than negotiate, an agreement with a municipality to take over abandoned or substandard private systems. The Ministry of the Environment can also order a transfer of operations permanently, not for an interim period, and to provide no guarantee that municipalities will be repaid for their services.

Something just doesn't seem right here. Why is a private operator or the government, through the Ontario Clean Water Agency, treated as a service provider worthy of negotiated agreement and payment, and the municipal operator, paid for by the taxpayer, is seen as the one to be ordered to take over a situation that was not of its making and then expected to cover the costs that can't be recovered, presumably through a subsidy from the property tax base? There is something patently unfair about this proposed model.

It is not just unfair, it also throws a wrench into the works for Bill 175 requirements, where the municipalities are required to do long-range asset management planning. How does a municipality do that when, at any time, the MOE may order them to take over an expensive, derelict private system within their boundaries which eats up their capital and operational dollars? Remember, some of these private systems include campgrounds and mobile home parks. This means that private businesses under this proposal would be subsidized by municipal property taxpayers.

1650

It should be pointed out that these proposed sections were not recommended by Justice O'Connor.

I ask you to please ask the MOE to clean this whole approach up so that municipalities are not left as the default operator of thousands of private systems. I can almost guarantee you that if legislation says in black and white that an owner only has to walk away from a private system to get the province to order the municipality to take it over, that is exactly what they will do, over and over again, across Ontario. That is not a desirable outcome.

Municipalities want to help, we want to be part of the solution, but we want to be a partner with the private owner and the province, we want to be able to negotiate the terms of the transfer and we want to have our costs—the taxpayers costs—covered.

We also have concerns about the standard-of-care provision under section 19 of the act. The talk among municipally elected representatives is one of serious concern as to whether they should seek re-election due to the potential personal liability that this section introduces. The government must clarify and carefully communicate the implications of this new legal standard to ensure that good people are not discouraged from running for office.

We have many other comments on Bill 195, but given the limited time, I am going to move on to Bill 175.

I want to state at the outset that AMO is in favour of moving to full cost recovery and so, in principle, we are

in favour of the types of principles that Bill 175 is meant to enshrine. Many municipalities have already moved or are in the process of moving to long-range asset management planning. But the municipal sector has a fundamental disagreement with the process that would be established by Bill 175. It sets up provincial micro-management and it is absolutely unnecessary and must be removed.

I am referring to the authority in the legislation under sections 9 and 13 for the minister to approve municipal water rates, and if he doesn't like how much they have gone up, to cap them. In terms of ministerial approval of rates, we simply believe that as owners and operators of public water and sewage systems, this is our responsibility. It has been for decades and we are best placed to understand the costs that are incurred in delivering these services. We have no objection to the minister reviewing or auditing our financial plans on a selective basis, but to require provincial review and approval of every municipality's water and sewage financial plans and rates is simply overly bureaucratic and unnecessary.

If the intention is to create a water and sewage equivalent of the Ontario Energy Board and the legislation allows for this by permitting the minister to delegate his authority to a third party, then we should know this up front. Again, we are not given the full picture here, and we need that full picture to understand the government's real intentions.

In terms of capping, the municipal sector is all too familiar with the provincial government's tendency to cap rates when they become politically unpopular, but capping doesn't solve the problem. It hides it and it creates a deficit in a full cost recovery regime. If rates go up too high, it is a signal that an alternative way of paying for the water system or an alternative way of delivering water is needed. Even if the provincial government offers to pay the difference in the short term, we know that in the longer term the municipalities will be picking up the bill. So AMO has asked the minister, and asks this committee, to get rid of the capping authority in Bill 175.

Those are my comments for today. Thank you again for the opportunity to share AMO's concerns with you. I would be happy to answer any questions from committee members.

The Chair: That affords us time only for one caucus. I'll give two minutes to Ms Churley.

Ms Churley: Thank you very much for your presentation, and I certainly would like to discuss some of this at a later date because there is no time now.

You bring up some concerns that I've expressed throughout the hearings. The one I want to focus on in particular, however, is the one about the concern around the—it's our view the sewer and water sustainability bill would allow the government to step in if it doesn't like—not only cap—the municipality's plan and tell you what to do with the system; in fact, privatize it or whatever. At the same time, even if a system is arm's length or

privatized, the elected official is still accountable and liable. Is that your concern?

Mr Boshcoff: Very much so. Members of the committee, there is no doubt that the talk at all of the regional municipal conferences, whether they're sponsored by the Association of Municipalities of Ontario, subgroups or others, is that municipal elected representatives are very nervous about the implication of where they may end up standing and what kind of liability may result upon them on a personal basis because of this standard of care. They understand the need for a higher standard of care, but I think at this stage there's no doubt that municipal elected representatives need to have that item clarified as to where they will stand and who will be there to stand for them. I hope that answers that.

Ms Churley: I guess if—

The Chair: Ms Churley, we're well over time.

Mr John Gerretsen (Kingston and the Islands): On a point of order, Mr Chair: This is the only organization that speaks for all municipalities in Ontario. You've allowed, from watching this in my office, all the other organizations an equal amount of time, but should the only organization that really speaks for every municipality that exists in Ontario not be given a little bit more time so we can ask them some questions? Or should they bring in all their various sections, such as OSUM and ROMA etc, in order to give full airing to the municipal viewpoint? I'm just asking for your kind consideration.

The Chair: They have now gone two minutes over the allotted 15 minutes, so they have received two minutes more consideration than any other group speaking today. To answer the second part of your question, it is totally legitimate that if they wanted ROMA and any other group of municipalities to make a presentation, they too would have been accorded another 15 minutes according to the rules set by all three parties before we extended invitations for groups to speak.

Thank you very much for your presentation here today. If you have any supplementary comments, the clerk would be pleased to receive them and distribute them to all the members of the committee.

Mr James J. Bradley (St Catharines): What are you afraid of?

Mr Gerretsen: What are you afraid of?

The Chair: Gentlemen, order.

Interjections.

The Chair: Order.

Mr Boshcoff: Chair Gilchrist, I thank you for that. I hope you do understand that we are trying to work with the government. It would actually be quite simple for us to line up all the regional organizations and take up a considerable length of time because the north may have specific interests. We're trying to fine-tune this in the interests of your committee's work.

The Chair: We appreciate that, but if there are other issues, we need to hear about them. Mind-reading isn't a

skill you bring to government. Thank you for coming before us today.

Mr Beaubien: I'll seek unanimous consent that we sit after six o'clock for an extra half hour so that we can hear from him.

The Chair: You'll be sitting without a chair because I have another commitment.

Mr Beaubien: We have a Vice-Chair.

The Chair: I think it would be more appropriate to again extend Mr Boshcoff and his colleagues the invitation: if there are other unique issues for any one or more municipalities, feel free to send those notes to the clerk. She will make sure we all receive copies immediately.

Mr Boshcoff: Thank you for your time. We will be doing that, as our working groups have been working very strenuously at trying to clarify this and again come up with a solution that is good for everyone.

1700

ONTARIO FEDERATION OF AGRICULTURE

The Chair: Our next presentation will be from the Ontario Federation of Agriculture, a group that also represents a few individuals in the province, Mr Gerretsen. Oh, Mr Gerretsen has left us.

Good afternoon, and welcome to the committee.

Mr Ron Bonnett: Good afternoon. My name is Ron Bonnett, as of yesterday, president of the Ontario Federation of Agriculture.

Mr Beaubien: Congratulations.

Mr Bonnett: For those of you who don't know, we represent approximately 40,000 farm families across the province. Just a few comments at the start about some of the background on some of the issues that we have been working on with respect to water and water quality. With our farm partners and the Ontario Farm Environmental Coalition, we were involved fairly extensively with the Walkerton hearings. We sat through those and we have basically recognized and actually implemented a number of initiatives with respect to Walkerton. In fact, some of those initiatives were put in place long before: examples such as the environmental farm plan, a series of best management practices publications, as well as a rural water testing program that we have available to our members. We also are implementing and putting in place a well upgrading and decommissioning program funded with the Healthy Futures money. I believe about \$700,000 has been spent on that program to date to try and avoid contamination of the aquifer.

We are also involved with research projects to better understand just how nutrients travel through the soil and also how pathogens that may be shed by farm animals migrate through the soil and to better understand the life cycle.

We're well aware that close attention must be paid to land management and any impacts that might have on the environment and we're working very closely with the Ontario Ministry of Agriculture and Food and the

Ontario Ministry of the Environment with respect to nutrient management planning at the farm level.

We believe farmers have an important role in what has become known as source protection and can assure the committee that farmers will take this responsibility very seriously. But we would like to emphasize that Justice O'Connor's multi-barrier approach to drinking water safety, when describing a municipal water supply, also calls for an appropriate level of treatment and maintenance of a distribution system.

I would also like to comment that we will be making presentations. I have been asked to sit on the advisory committee on watershed-based source protection and we're going to be participating in making some of our concerns and initiatives known at that level.

Basically, there are two issues and concerns we'd like to raise with respect to Bill 195. The way it's focused, it doesn't really apply to those members of ours who rely on private wells or on wells that maybe service fewer than four homes. We note that the bill has a section on municipal drinking water systems, but also a section on regulated, non-municipal drinking water systems, a category that we assume applies to rural schools, hospitals, nursing homes, restaurants etc.

Perhaps the intent is not to regulate private wells serving fewer than five families. However, if that is the case, the purpose statement will have to be modified since the way it is now worded—"To recognize that the people of Ontario are entitled to expect their drinking water to be safe"—would capture virtually every tap in the province, which would include private wells.

The OFA, along with other farm organizations, is encouraging private well owners to take water testing seriously and has established a recommended protocol that would have well owners test for bacteria three times a year, metals and minerals every two years, and pesticides, gasoline and solvents every five years.

It is noteworthy that since the Walkerton tragedy, the Ministry of Health and the health unit bacteria testing program for private wells has had a participation increase of approximately 800%. Our concern is that Bill 195's prohibition on contaminants may actually discourage rural residents from having their water tested for fear of the consequences associated with a test result that does not meet the standards. We want to make sure that there is still voluntary compliance with the testing.

The Ontario Federation of Agriculture believes the government of Ontario should recognize that a more reasonable approach to ensuring safe drinking water from wells servicing fewer than five homes is through building awareness with private well owners about the importance of protecting their water and providing some level of financial assistance to enable this group to regularly test water and undertake well improvements if necessary. On a practical level, this is far more achievable than trying to regulate the hundreds of thousands of private wells found in the countryside. A less rigorous approach for private well owners is justified, given that the drinking water systems used are less complex and quite easily managed

if the well owners are serious about delivering safe drinking water to their families.

The second concern is that some rural municipalities may attempt to recover the cost of upgrading a municipal water system through property taxes levied on rural residents who may not directly benefit from that service. This would be basically unfair, in our perception, because the cost incurred by a rural resident to secure, pump and maintain a private well system is a cost they bear themselves. If, through their taxes, they ended up having to cover the cost of other people's well systems or municipal systems, it would basically create an element of unfairness.

We would like some kind of assurance that municipalities that are required to upgrade drinking water systems are also required to cover upgrading costs with tax revenues generated by those who access municipal drinking water and are not passing those costs on to someone else.

The federation supports the government of Ontario's commitment to safe drinking water but encourages it to use a less regulatory, more stewardship-based approach when dealing with private wells serving fewer than five homes. The whole concept becomes almost a carrot-and-stick approach. We believe you could get much better compliance and much better results with a few carrots than with a regulatory type of approach.

Basically, that concludes our comments. If you have any questions, the expert is here beside me. Dave Armitage is our water and nutrient management specialist. So if I can't answer, he sure can.

The Chair: Thank you very much. This time we'll start with the government. There will be about two minutes per caucus.

Mr Norm Miller (Parry Sound-Muskoka): I was interested in your comments to do with property taxes, people on their own systems being used to subsidize municipal systems. In some of the submissions we've had come before us where there has been a lot of talk about funding, one of the thoughts that crossed my mind, whether it be provincial funding going into municipal systems, is whether it's fair. If you're already paying the full cost of your own water system because you're on your own well or your own septic system and nobody's helping you out in any financial way whatsoever, should you be contributing to municipal systems that are trying to bring their systems up to date? Maybe you can comment on that.

Mr Bonnett: Actually, from personal experience, I live in a municipality that has a municipal water system. I know that some of those costs have been transferred to general ratepayers, and there has been a lot of friction in the community because of that. Sometimes, when they can't recover the full cost in what they feel are reasonable rates, some of the costs get transferred over and just become part of the general mill rate. I think that's the thing we want to try to avoid. The people using the system should actually be paying for it. The farm community is feeling, "We look after our own systems and

pay the costs of those. We shouldn't also have to pay the cost of a parallel system."

It's actually interesting: in my case, I have municipal water to my own residence, and I would prefer to use it rather than my own system, because I have sat down and done the calculation of what it costs me to maintain my pump and the well, and it's just as cheap to purchase from the municipal system.

Mr Miller: I was also interested in your point about fear of testing or fear of taking the test results in for owners of private systems. As I understand, Justice O'Connor's recommendations were that the private systems not covered by regulation 459 should be covered by the current regulation, 501. But you lost me on why somebody would be nervous about taking in their own private results, I guess out of fear of adverse results.

Mr Bonnett: Maybe you'd want to comment.

Mr David Armitage: I think that just goes to the uncertainty of whether there would be serious consequences associated with a positive test for contaminants and whether they may be compelled to immediately remedy the problem. There may also be some concern that there may be an assumption—and we feel it would be an erroneous assumption—that a private household well that is somehow subject to contamination may interfere with a nearby municipal well system, which I don't think would likely happen, given the pumping rate and the cone of influence and those types of things. But that's what we're really concerned with. So the homeowner may feel that to avoid getting into that situation, they would simply not test. We would rather encourage them to continue to test and deal with any adverse result as it comes. Again, I think the concern is that there may be a regulation that if you get an adverse result reported to government, some action is taken.

Mr Bonnett: In a simple situation, a person with a livestock operation, for instance, would likely have the same well feeding their house. If, under regulation, they were forced to shut down that well, they would be in a crisis situation to find enough water for their operation.

1710

The Chair: Mr Bradley?

Mr Bradley: Are there any existing provincial programs—you made reference to some province programs already—that could use some additional funding that would assist the rural community in meeting the obligations that are inherent in either Bill 175 or Bill 195? Are there any existing programs which you think could be enhanced in terms of more funding that would be of assistance to you in meeting those obligations?

Mr Bonnett: I think it would be a fair comment to say that what we've found with the healthy futures program is that there has been a certain amount of uptake on the upgrading of the existing wells, but we haven't had as much uptake with respect to the plugging of old, abandoned wells. I think it becomes the whole issue that even though there is 64% funding from the provincial government to assist with the plugging of old wells, it's still a cost barrier to somebody to plug that old well; they

see the immediate value of making sure the well they're using is plugged and properly kept and sealed and all that, but there isn't that same direct association. So possibly a program designed to clear up abandoned wells would have a higher level of funding than for upgrading.

One of the other issues that has come up too is that a number of people have dug shallow wells. Under the program, they can rehabilitate that well. Possibly the best advice they could be given is to close that well and drill a new well, but the program design is such that it will repair the old dug well, which may still be subject to surface infiltration, but it won't pay for replacing that well with a drilled well.

I guess the other thing would be our water-testing program. I believe the base fee is \$100.

Mr Armitage: The base fee is \$100, but if you were to follow the protocol that Ron outlined, it would probably be about \$500 every other year, and that's without any subsidy. For a homeowner to incur that cost for testing is quite onerous. In the interest of safe drinking water, that probably could be assisted.

Mr Bradley: Good suggestions. Thanks.

The Chair: Ms Churley?

Ms Churley: Actually, I was going to ask the same questions about funding. Thank you very much for your presentation.

The Chair: We appreciate your coming before the committee.

CANADIAN ENVIRONMENTAL LAW ASSOCIATION

The Chair: Our next presentation will be from the Canadian Environmental Law Association. Good afternoon. Welcome to the committee.

Mr Richard Lindgren: Good afternoon, Mr Chair. My name is Richard Lindgren. I'm a staff lawyer with the Canadian Environmental Law Association. I'll be speaking to Bill 195. I'm accompanied by Theresa McClenaghan. She's also a staff lawyer at CELA, and she'll be speaking to Bill 175.

I should also indicate for the record that I have filed with the clerk an 80-page critique of the Safe Drinking Water Act. That brief contains some 29 detailed recommendations for amendments to the bill. Obviously I won't have time to speak to them today, but I encourage you to read them at your leisure.

I'd like to start off by thanking the committee for this chance to appear and to speak to the Safe Drinking Water Act. As you may know, CELA has advocated the passage of the Safe Drinking Water Act for over 20 years. When we represented the Walkerton residents at the Walkerton inquiry, again we very strongly urged the passage of a Safe Drinking Water Act. That is why we were very pleased to see Commissioner O'Connor recommend the passage of that act in Ontario. We're also pleased to see the government's commitment to the full implementation of all of Commissioner O'Connor's recommendations,

including those related to the Safe Drinking Water Act. That's the good news.

The bad news is the act itself is deficient, as drafted. We say that for several reasons. The first is that the act, as drafted, will not necessarily prevent the recurrence of a Walkerton tragedy. The act as drafted does not give effect to many key recommendations coming out of the Walkerton reports. The bill as drafted does not represent the best or toughest drinking water legislation in the world, as some people have claimed.

Let me give you a few examples to illustrate those concerns. First of all, there is nothing in the proposed act that would prevent the Ministry of the Environment from approving a drinking water source that was risky or vulnerable to contamination, a source like well 5 at Walkerton. You'll recall that was the well that was shallow, vulnerable to contamination, and the one that served as the entry point for contamination of the Walkerton system. There's nothing in this bill that would prevent the ministry from approving that well again today, which is surprising and shocking. That's an issue that needs to be fixed in the bill. More to the point, there's nothing in the bill that would require or empower the Ministry of the Environment to impose meaningful source protection measures to deal with risky wells like well 5. That's a significant issue that needs to be addressed.

Another example is this: there's nothing in the Safe Drinking Water Act, as drafted, that makes it mandatory for the ministry to issue a binding and enforceable order whenever an inspection detects a serious operational deficiency in a drinking water system. I've looked long and hard at the act. The only thing I can come up with is section 99, which says if a ministry inspection finds a deficiency, the ministry has to do a follow-up inspection within a year, and that's it. Well, that's great, but it's far more important, in our view, for a finding of deficiency to be followed immediately by the issuance of an order—again, an order that's binding and enforceable. Simply having one inspection follow another inspection does not protect drinking water; it does not protect drinking water consumers.

It appears to us that section 99 simply entrenches the very inspection problem that occurred in Walkerton. You'll recall that in Walkerton, ministry inspection after ministry inspection found serious problems with the system, yet the ministry chose to deal with those problems by way of correspondence—not an order; not a mandatory direction. You'll recall that Commissioner O'Connor found the ministry's approach was a mistake. He found that the failure to issue an order in those circumstances helped cause or contribute to the Walkerton tragedy. There's nothing in this bill, as drafted, that changes any of that. There is still excessive ministry discretion as to whether, when or if an order gets issued. That needs to be fixed.

There are lots of other things that are missing from the Safe Drinking Water Act as drafted, including things recommended by Commissioner O'Connor. For example,

Commissioner O'Connor says the precautionary principle needs to be used as the basis for setting drinking water standards. This bill, as drafted, doesn't do that. It doesn't even use the words "precautionary principle." That is a significant omission.

Commissioner O'Connor says the ministry should establish a procedure that would allow citizens to require—not just request, but require—investigations by the investigations and enforcement branch of the Ministry of the Environment. Nothing in this bill establishes that procedure. At most, all I could find was a provision that says the minister might pass a regulation dealing with this in the future. Again, that's excessive discretion and it's certainly no guarantee that Commissioner O'Connor's recommendation will be implemented adequately or at all.

1720

Before I leave Commissioner O'Connor's recommendations, I'd also point out he recommended that as the first critical step to doing anything, the ministry should develop a comprehensive source-to-tap drinking water policy. That's not mentioned in the bill. The bill doesn't impose any mandatory duty on the minister to develop that critical policy. Again, there's a disconnect between the recommendations of Commissioner O'Connor and what we actually see in the bill before us today.

Finally, before I leave this one, I'd be remiss if I didn't remark upon the claim that this is the strongest and best drinking water legislation in the world. That claim is simply without any merit whatsoever. If you want to look at a tough drinking water law, look south of the border. Look at the federal Safe Drinking Water Act that the United States has had since 1974. It's got lots of good tools in it that are not found in this bill. The US legislation has some very good source protection measures; the Ontario bill does not. The US legislation has very good community right-to-know provisions; this bill does not. The US legislation includes a citizen suit with respect to civil enforcement of the legislation; the Ontario bill does not. I invite you to read the US legislation if you want to look at a good drinking water bill.

Where does that leave us at the end of the day? CELA is recommending that passage of the Safe Drinking Water Act be deferred until the spring of 2003 at the latest. We do not want an open-ended deferral; we want to see expeditious action. But we also say it's going to take time to develop, implement and incorporate the many amendments that are going to be necessary to make the Safe Drinking Water Act. I'm particularly referring to the source protection initiatives that are now being developed by the source protection advisory committee. We're a member of it and, quite frankly, those pieces of the puzzle have to be in place before this legislation gets finalized and proclaimed into force.

I close on this remark. I mentioned at the beginning that we've waited over 20 years for the Safe Drinking Water Act. We're prepared to wait a couple of more months if it means the bill is going to be truly effective,

truly enforceable and truly will integrate source protection.

With that, I'm going to pass it over to my colleague, who will speak to Bill 175.

Ms Theresa McClenaghan: With respect to Bill 175, the Sustainable Sewer and Water Systems Act, CELA agrees with the premise of Bill 175, which requires that all regulated entities charge for the full cost of their water systems. However, CELA's fundamental concern with that bill is that it very narrowly defines "full cost." The definition, if you read it, speaks to extracting, treatment and distributing. It's a pipes-and-pumps definition and does not appear to extend to source protection, including aquifer and watershed protection. It's also unclear whether conservation and retrofit costs could be included.

Where water sources are already degraded, the definition does not appear to extend to restoration and rehabilitation costs. Also doubtful is water quality and quantity monitoring costs upstream of the wellhead or intake source, as well as post-distribution monitoring, such as for health indicators in the population.

Too narrow a definition will act contrary to the objectives of watershed-based source protection planning, restoration, rehabilitation and adequate monitoring. This is because the act provides that the regulations will specify sources of revenue that a regulated entity is or is not permitted to include in its full-cost financing plan.

Municipalities who wish to include source protection and watershed protection costs, restoration costs or monitoring costs might find they're expressly forbidden from charging for these costs. We don't know because we don't know what's in the regulations. Portions of the watershed source protection planning costs will be real obligations of the municipalities once the government enacts that legislation pursuant to Justice O'Connor's recommendations. The definition of "full-cost recovery," in our submission, needs to be broad enough to cover these new responsibilities.

Identical concerns arise with respect to the narrow definition of the full cost of providing waste water services, which I deal with in the Bill 175 brief we've provided to you in writing.

The second point I'd like to address is that municipal water prices for most municipalities in Ontario today are very low. C.N. Watson did a paper for CELA at the Walkerton inquiry and noted that the cost per year per household is less expensive than cable television and much less expensive than bottled water. By C.N. Watson's calculations, the standard \$1.25 cost of a bottle of spring water purchases 3,200 glasses of municipal water at the median price in Ontario. This means that for most of the people in Ontario, there is plenty of capacity to raise rates and other water-related charges a reasonable amount so as to charge full costs that include a portion of source protection costs. However, there are two exceptions to this statement: one is for people in poverty; the other is for some small systems.

With respect to the people in poverty, recommendation 5 in our Bill 175 brief is that the province

encourage and develop guidelines for municipalities to protect disadvantaged residents from prohibitive water rate increases.

With respect to small systems, Justice O'Connor noted that there are many options available to small systems in order to make their systems more viable with existing tools today. However, Justice O'Connor noted that many already approved systems may still then be unable to meet the standards at a reasonable cost. He recommended these situations be dealt with as the need arises on a subsidy basis, "rather than cause a departure from the high standards of drinking water safety that Ontario residents expect." CELA's recommendation 6 in the Bill 175 brief speaks to this recommendation.

There are sources of funding for water systems already available in Ontario. In addition to the existing sources of the rate base, user fees, like hook-up charges, development charges, extensions to non-serviced areas and other mechanisms listed by C.N. Watson in their paper for CELA, CELA submits that there are important additional sources of funding for water systems that must be pursued in Ontario.

An important issue in developing the watershed-based source protection framework will be the allocation of costs of that framework. CELA submits that some of the costs ought to be allocated across the sectors that affect the source: water takers, the sectors that impact the quality of sources, including agriculture industry, development and others. Bill 175 should be amended to provide that a portion of the costs of watershed-based source protection framework are allocated across these sectors, and that some of those funds go back to municipalities for watershed-based source protection planning. An approach like that was taken in France, where a water agency levies a water charge on withdrawals and discharges at the level of each of six large river basins. Those are used to subsidize community investments to improve water resources and to treat effluents or improve operation of treatment plants.

Our written submissions provide further detail in this respect. In our opinion, even a small levy per unit will provide sufficient funds to provide for full cost and source protection in Ontario.

Finally, CELA recommends that Bill 175, which in our opinion is not urgently needed in Ontario because of the existing variety of mechanisms that already exist for municipalities, should be deferred in order to be integrated with a source protection planning framework that the government is in the process of developing right now. That source protection framework will be critical, and both source protection and overall system financing and management must be integrated. We don't want to see a situation where yet one more piece of legislation has to be revisited, as we already have to do with the Nutrient Management Act, in order to integrate that framework.

Those are our submissions, Mr Chair. Thank you.

The Chair: Thank you very much. It gives us time for one relatively brief question. This time the rotation would take us to Mr Beaubien.

Mr Beaubien: Just a quick comment. The presenters mentioned that they've been advocating for the passage of the Safe Drinking Water Act for 20 years. I'm personally a realist, not a perfectionist.

You mentioned about tough water laws south of the border. I wonder why they want to basically come up here and buy our water.

In one of your recommendations you mentioned strengthening accreditation, licensing and training requirements under the act. I totally agree with you that we can have all the criteria in place and all the engineers, the people who will do the testing. But if we have irresponsible people recording illegal results, we're still going to have the same results and there isn't a bloody law in the world that will stop that from happening.

1730

Mr Lindgren: I will respond briefly to that. That's why we need good, effective inspection, monitoring and enforcement, to make sure that the rules are complied with by irresponsible operators.

Mr Beaubien: You manage risk; you don't eliminate risk, sir.

Mr Lindgren: You put in place mandatory inspection and enforcement to minimize those risks.

Mr Beaubien: That's right. That's what I'm saying. You manage risks; you won't eliminate them all.

The Chair: Thank you very much. That exhausts our 15 minutes, but we appreciate you coming forward with a very detailed presentation today.

CUPE ONTARIO

The Chair: Our next presentation will be from CUPE Ontario. Welcome to the committee.

Mr Brian O'Keefe: My name is Brian O'Keefe. I'm the secretary-treasurer of CUPE Ontario. To my left is Shelly Gordon, who is a national research representative with CUPE.

We have a very strong interest in the issues around these two bills. CUPE represents 200,000 workers across this province. We have in excess of 60,000 members who work in the municipal sector and many of them work in the water and waste water treatment areas. We have a very strong interest in the delivery of high-quality, affordable public services, services that are accountable to elected municipal politicians.

We were shocked, like everybody else, around what happened at Walkerton. The submission that we gave around the Walkerton issue, we did in conjunction with CELA and OPSEU. We used a framework to try and determine what was the best, appropriate water system for Ontario, particularly in relation to the issue of ownership and control. We used a framework analysis consisting of five elements: security of supply, quality, environmental protection, public accountability and involvement, and full and fair pricing of water.

That analysis, using that framework, very clearly demonstrated for us that the most appropriate form of ownership and control for water systems in the province

of Ontario is in the public sector. All the research that we've done since then backs that up, and also the response we made to Judge O'Connor's report.

If I may deal with the two specific pieces of legislation, I'll start with Bill 175. This is the bill that we have most problems with, much more so than Bill 195.

It seems that there's a tone of panic these days in any public discussion about maintenance, repair and replacement of water and sewage infrastructure. The sort of figures that we've been hearing around this issue is that the liability out there is somewhere within the vicinity of \$25 billion to \$40 billion. This is a huge amount of money that's required for investment in water infrastructure. It clearly has arisen because of neglect in this area over many years, particularly in the 1990s, with cutbacks in municipal structure and downloading. Everything has been postponed, so we have a massive build-up that has to be addressed right now.

It's really regrettable that the Ontario Sustainable Water and Sewage Systems Act is contributing to the ongoing downloading to the municipal sector, a sector which has taken a heavy hit in recent years. This is just going to add to the huge pressures on municipalities to come up with the funds to deal with this huge infrastructure deficit.

On the issue of downloading, Judge O'Connor was very clear. He stated that it shouldn't be an added burden on municipalities, and he urged the province to ensure that would not happen. Quite clearly, with this particular piece of legislation, massive downloading is continuing to occur, and that is very regrettable.

Bill 175 explicitly allows the involvement of private companies in water and waste water extraction, treatment, delivery and recovery. The overall effect, perhaps even the intent, of the Sustainable Water and Sewage Systems Act will be to encourage municipalities into the arms of private water and sewer corporations and private financiers, chasing doubtful promises of increased efficiency and lower costs.

Bill 175 dovetails precisely with plans prepared by the SuperBuild Corp for private involvement in water and waste water systems and financing, with the reporting requirements in the Public Sector Accountability Act, with the new Municipal Act, and with new municipal financing initiatives, and helps set the stage for the privatization of Ontario's water and waste water systems.

If the private sector is able to gain a foothold in water and waste water operations in Ontario, the provisions of NAFTA and GATS will come into play. We do not know their exact impact yet, but we predict that these trade agreements can potentially and seriously erode municipal control over essential services. Once we go down that road with these international trade agreements, it's game over. If our water treatment plants go to the private sector, that's where they're going to stay, with the sort of international trade agreements we have at this particular point in time.

Water and waste water systems were brought into the public sphere in Ontario at the beginning of the 20th cen-

tury because water is a necessity of life, and clean, safe water and effective waste water treatment are foundations of public health. If the government of Ontario is serious about ensuring safe water for the citizens of Ontario, they must ensure that municipalities have the funds to keep their water and waste water systems in good repair and ensure that they are in the public domain, where quality and safety are the overriding goals of the service.

I want to talk a little bit about the whole issue of user fees. We understand there is merit in appropriate costing of water, but there are other issues involved in this as well.

As a union, CUPE is opposed to the introduction of user fees for a critical public service under the auspices of full cost pricing. Water is a necessity of life. The Sustainable Water and Sewage Systems Act makes no attempt to ensure there will be universal access to adequate safe, clean water in Ontario, regardless of income or geographical location.

We've got some interesting information that we received very recently around events that are taking place in other parts of the world, particularly in South Africa. South Africa has commercialized its water system and introduced full cost pricing. At this point in time, there have been 10 million water cuts arising from that. This has had a horrendous effect on people with low incomes and vulnerable people. That is our major concern here around the issue of full cost recovery.

CUPE understands that water rates need to increase significantly in most municipalities in Ontario to begin to cover the cost of delivering and treating water and waste water. It is completely irresponsible for the Ontario government to introduce full cost pricing without explicitly planning to assist municipalities and individuals who cannot afford the new financial plans and the new water rates. Justice O'Connor warned that rising water rates should not become a significant burden on low-income families and that the province and municipalities should ensure that they did not.

Will the government of Ontario cause water rates to rise out of control by creating chaos in water and waste water systems as they have in the energy sector and then deal with increased water rates as they dealt with increased electricity rates? If that is allowed to happen, I think we're in a crisis situation for the future.

1740

I'd like to make some comments on Bill 195. We have problems with this particular piece of legislation, but not to the extent we do with Bill 175. Many of the attempts here to bring serious standards and licensing into the water system are, I think, laudable. However, there are other issues here that are of concern to us, and because of the deficiencies I'm about to outline, this is a flawed piece of legislation as well.

The government has to put real resources into ensuring the safety of Ontario's water, and not half or quarter measures. I don't have to reiterate the fact that the budget of the Ministry of the Environment was cut by 50% and what is being put back into it at this point in time is a

pittance. Justice O'Connor estimated the cost of implementing his recommendations at somewhere between \$99 million and \$288 million, but that is only for increased monitoring, inspecting and testing in the system.

The Ontario Safe Drinking Water Act is neutral about privatization. The fact that it's neutral on this issue is a real concern for us. It explicitly allows the minister to appoint private organizations to accredit, license, audit and monitor water systems. CUPE very clearly does not believe that privatization of the administrative functions of the system intended to oversee the enforcement of safety standards can be effective for the water of the people of Ontario.

As with Bill 175, we see the Ontario Safe Drinking Water Act as part of a series of this government's legislative initiatives and other programs. Both water bills impose new costs on already strained municipalities without offering any new funds to meet new requirements. Both allow private operations and financing.

I want to address a few concerns about the training and certification of operators. This is an area that is of great concern to us. As I pointed out to you earlier, a lot of our members work in the system. Justice O'Connor made several recommendations concerning training and certification. We are in favour of upgrading the system where there is proper certification and proper training, but we have some concerns here as well.

CUPE is in favour of ensuring that all operators in the system are well qualified and properly trained to carry out their roles in delivering such a critical public service. However, Judge O'Connor recommended that training courses be tailored to meet the needs of the operators and that efforts should be made to ensure that the examination process accommodates any study or exam writing difficulties that long-standing employees may have. Officials in the Ministry of the Environment, and even Minister Stockwell during a speech in the House, have offered us positive signs that appropriate training and testing will be designed to ensure that existing operators are not disqualified for the wrong reasons. We look forward to a consultation with the ministry staff dealing with these issues, and that's going to happen next week.

I want to make two other points, which are really important for us: (1) retraining and certification for grandparented operators must be at the province's or employer's expense and on the province's or employer's time; and (2) there must be employment and income protection for those grandparented operators who are not successful in becoming certified under the new regulations. Employers must offer suitable redeployment and income protection, or bridging to pensions.

In summary, both these pieces of legislation are lacking in many ways, particularly around the issue of public ownership and around the issue of forcing municipalities to shoulder the burden. Municipalities are being asked to meet requirements around full cost recovery plans, but all the funding responsibilities are resting on the municipalities' shoulders, and that is regrettable. Full

cost pricing also must not be introduced but a plan to ensure that the cost will not deprive any citizen of Ontario an adequate, reliable, clean, safe supply of water.

Two final points. The first one is that we want to express our support for the recommendations from CELA and other environmental groups for source protection of water. That is something that is sadly lacking in Bill 195. Finally, we concur with other groups that have called for the deferral of Bill 175.

The Chair: Thank you very much. I actually let you go a little over time, but we appreciate you coming before the committee this afternoon.

CANADIAN INSTITUTE FOR ENVIRONMENTAL LAW AND POLICY

The Chair: The final presentation this afternoon is from the Canadian Institute for Environmental Law and Policy.

Ms Christine Elwell: Good afternoon. Thank you very much for having me at this late hour. I'll very much try to keep it short.

My name is Christine Elwell. I'm the senior legal and policy analyst for the Canadian Institute for Environmental Law and Policy, an environmental research organization established in 1970. We have provided these submissions to you and I just wanted to say at the top how much we appreciate the work the committee has put into crafting these bills. We particularly want to acknowledge the recommendation to have the Minister of the Environment manage Bill 175 instead of the Minister of Municipal Affairs, and we thank you for the recognition on that.

However, we must emphasize our two chief concerns with these bills. In particular, we are very concerned that not enough attention has been given to the fact that, with a combination of Bills 175 and 195, the government actually acquires the power to permit or approve the transfer of local municipal water systems to the private sector.

Currently, 80% of all municipalities run their water systems within the public sector. To have the private sector owning the water resource, the water system and the water services and having delegated authority to in fact extract the water from the source is, in our view, contrary to the recommendations of the Walkerton inquiry and Justice O'Connor, who rests every recommendation on continual municipal ownership of the water system. These two bills are a departure from that.

Moreover, our research indicates that public expectations or preferences are that the water system remain within the public sector. Indeed, if these bills were to pass, it is our view that there would be a breach of the public trust, a breach of a concept that dates back, I was very interested to find out, to the Roman period, to the 6th century. We knew that if you allow the sovereign to take control of exhaustible natural resources, this puts civil society at a drastic risk.

We've seen the concept of public trust developed in Britain over navigable water and public access to them further developed in American jurisprudence, which now extends public trust to environmental protection and ecological function. We've seen elements of the public trust in our own Canadian heritage. The Constitution Act of 1867, I was so pleased to discover, in section 109, gave the provinces jurisdiction over exhaustible natural resources, but "subject to any trust and any interest therein." We see later a statutory recognition of this in the Ontario Environmental Bill of Rights. Both the preamble and the purpose section speak in terms of trust language, that the people of Ontario are there to enjoy these resources, that the government is there as the trustee to ensure their continuation. We see direct procedural guarantees in the bill to be able to enforce these rights. So, in our view, there is a public trust doctrine.

1750

We are asking that this committee defer the bills and seek a legal opinion from the Attorney General of Ontario, who is the guardian of the public trust—their own language—the sole and top legal adviser to government on matters of a legislative nature, and seek an opinion whether or not there's a public commons to the water resources. Following American doctrine, it also means the actual access to the resource. Some argue, "Oh, if there's a trust, it's only about the actual waters." But if you think about it, what you also need is the means to use that resource; the access to it needs to be guaranteed.

Unfortunately, in your bills—maybe you didn't think about it, I'm not sure. But a reading of your bills in that light would allow the private sector to not only own and operate the water systems but have direct authority to extract the water, and at a certain point it's no longer a public resource, it becomes a vested, acquired right by multinational water companies.

I'd also like to say, if we go down that road, we will have NAFTA and investor-state challenges. Once you change the nature of a public monopoly, NAFTA, chapter 15, says that new monopoly with private partnerships with the private sector, even if it's still a monopoly, must operate under commercial consideration alone. So if we want to have the best laboratories, the best training, the best standards, presumably this would run afoul of NAFTA commercial considerations alone. NAFTA, chapter 11, ensures the effective enforcement of these rights. You know about NAFTA, chapter 11. We've had at least 23 cases in the 10-year history of NAFTA, specifically about overturning government legislation on environmental protection or public health.

So these are risks that are real, and we're also asking the Attorney General to give us an opinion not only whether or not water and the actual access to it but also whether NAFTA and other trade obligations would be triggered should the bills proceed.

Just an update: I was very interested to discover in the Canadian Press a story of the press conference this morning that a spokesperson for your Attorney General,

David Young, indicated that their office is only prepared to give legal advice to the cabinet, that they are not prepared to offer advice to your legislative committee. I feel your pain. I think you should try to muster up enough of your own personal resources or whatever legislative or good-office resources you may have to obtain a legal opinion on the authority to be able to transfer water to the private sector.

I'll close because I really want to get your questions. The point is, recall that in July of this year the Ontario Supreme Court struck down the authority to sell off Hydro One. The Electricity Act did not provide clear legislative authority for the government to put an IPO to sell off Hydro One. The government had to go back and change its legislation. What a kerfuffle. Let's avoid this. Let's get an opinion now. Let's clear the decks. Let's have a real public debate. Frankly, it's just not out there. People don't realize what's in these bills. They think the government is faithfully implementing Walkerton when clearly it's not the case.

I think we need a real public debate on the risks and consequences going down this road. Surely public expectations are there to continue with a public water system. You only need to think about last week at city council in Toronto, where there is overwhelming public opposition to going down the road to a private sector water system. Eighty-six per cent of residents in Toronto disapprove and council turned it down. I haven't seen any Ontario polling, but I suggest the public expects the system to remain within the public sector and it would be good government and wise for you not only to get the legal opinion but to have a real public debate. We support CELA's recommendations and support a deferral to spring of 2003.

The Chair: Thank you very much. That will afford us time for one fairly quick question from each caucus, starting with Mr Gerretsen.

Mr Gerretsen: I'll put it to you very bluntly: the argument is going to be, "Well, you know, this is better than what we had before. If the government insists on passing it, that's just all there is to it." I've heard enough in just the last three or four presentations that I'm starting to have some very serious doubts. I think that all of the organizations ought to be complimented on what they're doing. But how would you respond to that, when the general public is under the impression that something is being done about the water situation, and even with these flawed acts, we'll be in a better position than we were before?

Ms Elwell: With great respect, sir, I would say, no, it's better not to be hasty. It's better to take a prudent course. If there is a public trust, once legislation extinguishes it, it's gone. You don't get to claim it back again. This is a critical moment. It would be wise and prudent to get an opinion first before you go down that road.

The people of Ontario are patient and kind-hearted people. They'll know that you're moving forward, you're going ahead with source protection plans. Bravo. That's

what Justice O'Connor said to do first. Do that part first. So I don't think you would face any wrath of the public to take your time and do a good job.

Ms Churley: Thank you, Ms Elwell. I don't know the law as well as you do, but I share your passion about this issue. The concern you raised about the privatization of the system is one that I've raised and in fact is why my caucus voted against, particularly, the sewer and water bill.

I went down to city hall, by the way, and all those who were supporting the board being set up said, "Don't worry. You're being alarmist," and "This isn't really going to privatization." But what I noticed is that there were a lot of private sector lobbyists down at city hall during that whole time, and that's when I realized it really was about privatization. That's why we have to take this very seriously.

I don't expect that the government's going to agree to have the Attorney General look at it. I'm wondering if you might suggest some amendments, because that's the approach I want to take: amend those offending pieces right out of the legislation.

Ms Elwell: I think amendments to 195—to define "owner" to only be municipal water systems; don't allow "owner" to include any regulated entity; tighten up the language in 47 about transferring, not the ownership.

Basically, it's on a scale: the closer you can keep it to a public system, the better to avoid the trade and privatization concerns. So I think you could start with that. I'd scrap 175 and start again.

Mr Beaubien: I have a quick question. First of all, thank you very much for your presentation. Like Ms Churley, I'm not a lawyer. Although the comments you made about the Roman Empire—my colleague said that's when I was born.

One thing that I would like to stress here is that the government is concerned about potable water and good-quality water. There is no doubt that we talked about the private-public sector. I think I'm more concerned with the quality of water that people are drinking, because if we remember what happened in Walkerton, it was a

publicly owned system run by the municipality. So if we get into that debate, tragedies can occur whether it's public or private. I think the thing we have to concentrate on is that those two bills are trying to make sure that we have safe, potable water for all the residents in the province of Ontario.

Ms Elwell: I hear you. What you're saying is that if you have good, tight standards, it doesn't matter who's running the system—more or less. My response back: first of all, in Walkerton what you had was a situation with a public utility commission, one step removed from a truly public system accountable to council. You had commissioners who were appointed. There was less public accountability than, say, in the city of Toronto situation, where you have a department of water that's directly accountable to council. So I would use Walkerton as an example of where privatization can take us.

Mr Beaubien: Our public utilities in my community have elected officials. They're directly elected.

Ms Elwell: Well, then, bravo. I take that qualification. But let me say why, if you have just good standards, that's not enough. That's because NAFTA chapter 11 allows for private sector—you know, it's not going to be Ontario companies that can take advantage of NAFTA. It's going to be foreign companies that use NAFTA chapter 11. They can say, "Your standards are an expropriation of my profit expectations." Barry Appleton just made \$8.4 million last week with S.D. Myers on PCBs. This is real life happening out here.

These disputes aren't going to happen in a public court where you can test the evidence and the media can cover it. It's behind closed doors. I can give you countless examples of this. So you see, it's not just a question of "as long as the standards are OK," because those standards can be disputed by foreign investors.

The Chair: Thank you very much. We appreciate you closing off our proceedings here this afternoon.

With that, the committee stands adjourned until Monday, likely at 10 o'clock, in Walkerton.

The committee adjourned at 1801.

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Comité permanent des affaires gouvernementales

Loi de 2002 sur la durabilité
des réseaux d'eau et d'égouts

Loi de 2002 sur la salubrité
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LEGISLATIVE ASSEMBLY OF ONTARIO

ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

STANDING COMMITTEE ON
GENERAL GOVERNMENTCOMITÉ PERMANENT DES
AFFAIRES GOUVERNEMENTALES

Monday 2 December 2002

Lundi 2 décembre 2002

The committee met at 1002 in Victoria Jubilee Hall, Walkerton, Ontario.

SUSTAINABLE WATER AND
SEWAGE SYSTEMS ACT, 2002LOI DE 2002 SUR LA DURABILITÉ
DES RÉSEAUX D'EAU ET D'ÉGOUTS

SAFE DRINKING WATER ACT, 2002

LOI DE 2002 SUR LA SALUBRITÉ
DE L'EAU POTABLE

Consideration of the following bills:

Bill 175, An Act respecting the cost of water and waste water services / Projet de loi 175, Loi concernant le coût des services d'approvisionnement en eau et des services relatifs aux eaux usées;

Bill 195, An Act respecting safe drinking water / Projet de loi 195, Loi ayant trait à la salubrité de l'eau potable.

GRAND RIVER
CONSERVATION AUTHORITY

The Chair (Mr Steve Gilchrist): Good morning. I call the standing committee to order for the purpose of considering Bills 175 and 195. The first presentation this morning will be from the Grand River Conservation Authority. Good morning, and welcome to the committee.

Mr Paul Emerson: Good morning. My name is Paul Emerson. I'm the chief administrative officer of the Grand River Conservation Authority. I've handed out the package in front of you, with the fancy picture. It's a fairly brief presentation.

First of all, thank you for the opportunity to be here today. We'd like to comment on two aspects of Bill 175 that we believe are of critical importance in the provision of water and waste water services.

The first may be somewhat unique to the Grand River watershed and a few others throughout the province, but it deals with infrastructure. In the Grand River watershed, there is a series of multipurpose reservoirs that are an integral component of the water and waste water infrastructure. There is a map in here that shows where

those reservoirs are located. It's appendix 1. There are several of them.

A number of municipalities in the Grand River watershed take all or a portion of their water supply from the river system. All of these municipalities dispose of their treated waste water from 27 waste water treatment plants into this river system. Again, I've added another map, appendix 2, that shows the location of those sewage treatment plants.

The reservoir system we operate is operated to ensure there are minimum base flows in the river for use as water supply and waste water assimilation. One other chart—and this is the last one—shows what happens to the river in the summer through Kitchener and Brantford, and the Speed River in Guelph. If you were to study appendix 3, you would see that in various locations the majority of the water in the river from June, July through into the fall comes from this reservoir system, the point being if the reservoirs did not exist, there would not be water in the river for water supply for these municipalities and the sewage treatment plants would not be able to operate. It's critically important, and I can't over-emphasize that point.

Therefore, we'd recommend that the full costs of water and waste water services include costs associated with this multipurpose reservoir system and associated monitoring network that is required to enable us to operate it.

I don't know whether you'd like to entertain questions at this point, or should I continue on to the second point?

The Vice-Chair (Mr Norm Miller): If you want to do your whole presentation, then we'll have questions after.

Mr Emerson: Fine. Thank you.

The second area I'd like to deal with today is source water protection. As you know, Justice O'Connor noted that source water protection is the first barrier in a multi-barrier approach to protecting water supplies. Our conservation authority, which is one of the largest in the province, receives a significant portion of its municipal levy from the municipal water/waste water rates for services that help to protect the sources of this water. Some of these services, as I'm sure you're aware, include groundwater and surface water mapping, monitoring, water budget analysis, water quality analysis, subwatershed planning, and the list goes on.

We would recommend that costs associated with source water protection be an eligible component of full cost accounting for water and waste water services. There is absolutely no question in our minds that they are essential services and should be considered in this point.

Those are the only things I had to say today. I'd be happy to entertain any questions. Thank you very much for the opportunity to speak with you.

The Vice-Chair: Thank you very much. That allows about five minutes for each caucus, starting with the official opposition.

Mr James J. Bradley (St Catharines): My first question deals with cost. Depending on the size of the municipality, and this is true mostly for the smaller municipalities that have a very small property tax base or a small number of water users, obviously the imposition on people in that situation will be substantially different from that, say, in Metropolitan Toronto, the whole city of Toronto, as it's called now, where there would be a much greater tax base and a lot more users to contribute to the system. In this case it's the senior level of government which is most operative, but sometimes we have as well federal-provincial programs where there's a contribution from all three levels of government. Do you think that at least in the initial stages it would be appropriate to have a funding partner from the province to help out those municipalities?

Mr Emerson: Yes, we certainly believe the province has a role to play in helping to fund some of these services. I know Justice O'Connor indicated there has to be sufficient funding made available to provide this. He went on to say that obviously the sources are the provincial income tax base level of funding, the property tax base or user fees. To answer your question, to make a practical solution for the province, you're going to need a combination of all those sources of funding.

Mr Bradley: Conservation authorities took a huge cut post-1995 because the Ministry of Natural Resources took a huge cut; authorities being involved with the Ministry of Natural Resources, those cuts affected you and were very significant. Would you anticipate that if you were to assume the responsibilities—it only makes reference to it in this bill as opposed to being specific—that Justice O'Connor talks about in terms of protection of the source of water, you would need a substantial increase in your funding from the province, perhaps at funding levels you had before the cuts came or even larger? Would you require that to be able to do your job appropriately?

Mr Emerson: We'd certainly require additional funding to do our job appropriately. As I mentioned before, Mr Bradley, I would suspect and hope that the funding would come from all three potential sources, the provincial government as well as the municipal and user fees. But to answer your question directly, there would have to be additional provincial funds provided to the conservation authorities to protect the sources of our water.

Mr Bradley: When we're looking for the appropriate, properly trained and expert staff, we find in some cases

that there's a glut on the market, if you will, a lot of people around available to do it. In other cases, it's difficult to find those with the particular expertise. Do you believe that in the next few years you would find it difficult, or do we have a sufficient number of people out there whom you'd be able to hire to carry out the responsibilities of a conservation authority?

1010

Mr Emerson: It's already a challenge. Post-Walkerton, maybe even before that, it was becoming a challenge. Our conservation authority, for example, as I mentioned, is fairly large; we have a fairly wide range of expertise. We just hired a hydrogeologist; it was a very difficult recruitment process, but we just obtained another hydrogeologist. We recruited a water quality supply expert; we had to recruit right across Canada and they came from the west. We had to recruit some IT-type people from California. That's the kind of range you have to look at when you're recruiting this kind of expertise today.

The Chair: Thank you, Mr Bradley.

Mr Bradley: The boss tells me when I have to stop.

Mr Norm Miller (Parry Sound-Muskoka): Thank you for making your presentation today. I'm interested in full cost pricing and your suggestion that conservation authorities and their capital costs should be taken into account. In my riding, for example, Parry Sound Power manages one complete watershed; they have 14 dams on the watershed that they look after. It's really strictly to do with power generation. I was talking to them and they're looking at financing some more generation. On that side of the riding it's different from on the Muskoka side, where the Ministry of Natural Resources looks after pretty much all the dams and control structures.

I'm just wondering, in terms of drinking water and water and sewer, where the break-off point is and how you split off all these costs from different interests, whether it be hydroelectric generation or, in the case of MNR, maintaining water for fish levels, cottagers and boating navigation. There are a number of different interests and they probably should, in one way or another, share in the costs of maintaining the structures. Have you any ideas on that, how this works into full cost accounting?

Mr Emerson: For example, in our watershed the region of Waterloo takes about half of its municipal levy from the water-waste water rates. The city of Brantford takes it all because it takes all its water supply from the river. The city of Guelph currently doesn't take any, for example, but it's looking at taking a certain portion from that.

We just provided the region of Waterloo with some figures when we looked at all our programming and we felt that in the region of Waterloo you could take up to 65% to 75% of our costs from the water-waste water. There are services that we provide dealing with fisheries, as you said, dealing with flood control, that wouldn't likely be appropriate to put on your water-waste water services. We can break that out for you.

Mr Miller: Would you split it up based on a specific scenario? For example, around Bracebridge they draw their surface water from Lake Muskoka. I guess indirectly the control structures maintain the water level, although it's a pretty deep lake. So even if they weren't there you'd still be getting drinking water from the lake on the Parry Sound side. Parry Sound Power wouldn't affect the drinking water anyway, because Parry Sound draws from Georgian Bay, so the control structures wouldn't affect that. Would you look at each case individually?

Mr Emerson: I think you really have to, but let's not forget you're obviously looking at a province-wide scale. Anything that we're doing in the watersheds to protect the sources of water—that's the source of water for the Great Lakes. In our watershed there are about a million people who take their water supply from the rivers or the groundwater system. Most of your other large urban centres in the province take their water supply directly from the Great Lakes. But how can you protect the quality of water in the Great Lakes? There's only one way, and that's dealing with it at the source, at the watershed level. Justice O'Connor said that but he wasn't the first one. Everybody who studies the situation says this kind of thing. I think you have to remember that when you're looking at the full cost of providing this service.

1020

The Chair: I'm afraid we've run out of time, unless you can say it in about 25 seconds, Mr Johnson.

Mr Bert Johnson (Perth-Middlesex): I grew up by the headwaters of the Conestoga, near the Conestoga dam. My interest was the same, and that was that there are what I would call considerable recreation facilities. There's a lot of ownership of cottages and so on around. I was wondering how the tax base contributes toward the upkeep of a facility like that, which also accommodates recreational water levels, as well as flushing out the Grand further down.

Mr Emerson: What Mr Johnson is talking about is that along the larger reservoirs there are 750 cottage lots. The tax dollars pay for none of that service. They pay leases. In fact, if you talk to the cottagers, they feel they pay too much money. They're paying a disproportionate share, in their minds, toward the operation of the reservoir for water and waste water services. But we feel it's a pretty good split now. It's set up so that they don't pay anything toward the operation of the reservoir from the water and waste water side. On the other hand, from a recreation point of view, there are no tax dollars going into that.

Mr Johnson: Where does the tax money go, to the municipality or to the Grand?

Mr Emerson: The lease money comes to us.

The Chair: Thank you very much for your presentation. We appreciate you coming before the committee this morning.

SOIL AND WATER CONSERVATION SOCIETY, ONTARIO CHAPTER

The Chair: Our next presentation will be from the Soil and Water Conservation Society, Ontario Chapter. Good morning and welcome to the committee.

Mr Peter Chisholm: Good morning, ladies and gentlemen. I'm Peter Chisholm. I'm a retired professor from the school of engineering at the University of Guelph and I'm currently the treasurer for the Soil and Water Conservation Society, Ontario Chapter. I'm here in the latter context and I wish to provide to you some thoughts that Professor Whiteley and I have about Bill 195 in respect to safe drinking water.

I'm going to read pretty much through this. It tends to be fairly structured and I apologize for that, but my comments are fairly specific. It's a little bit more laborious to read, but I'll do that in any case.

We are indebted for the opportunity to take part in this proceeding and wish to express our thanks to the Honourable C. Stockwell for that privilege.

We intend that our acknowledgments embrace three recent events relevant to this proceeding. The first is the forward-looking current policy to protect freshwater source areas in the Oak Ridges moraine. The second is the recent decision in the Divisional Court of the Ontario Superior Court of Justice to uphold the appeal by the Grey Association for Better Planning over whether water-taking is a land use under provincial statutes. This decision contributes to the protection of sources of water by encouraging municipalities to be active in protection of water sources.

Just an aside at this point: although Bill 195 is not a bill about the protection of source areas, a lot of the content in the bill as we see it refers specifically to the requirement for source protection.

Municipal participation is especially important in areas included in Ontario's snow belt. A snow belt—we all know about it; we're here in the middle of it—can be thought of as a feature of climate. It can also be thought of as a landscape feature, not unlike the Oak Ridges moraine. The snow belt extends from the Dundalk highlands generally southwesterly through Mount Forest, Stratford, Saint Mary's to Strathroy. It basically is the divide between drainage into Lake Huron and Georgian Bay to the northwest and drainage to the south into Lake Erie and Lake Ontario.

That snow belt contains the sources of water of concern to the Grey Association for Better Planning. As a landscape feature, the snow belt is the source of thousands of private water supplies from groundwater and it's also the source of base flow in principal cold-water fisheries that issue from it.

1020

Mr Bill Murdoch, MPP, you will know about this because of your input to the fisheries habitat protection program in your jurisdiction. You've done a lot of good work in that regard. Basically, the second event that we're referring to is that the snow belt has come into

focus as a significant land form in relation to the broader issue of source protection.

The third event is Bill 195. It relates to a number of topics that merit expression in respect to source protection. In what follows we refer to those points and present recommendations that are intended to enhance the content of Bill 195 in respect of source protection.

We did give you six recommendations, and my plan is to proceed through each one, one at a time. I will be quite pleased if you wish to stop me at any point and ask me about what I'm saying or trying to say.

First, I want to refer to the explanatory note to the draft act. The explanatory note states that "the people of Ontario are entitled to expect their drinking water to be safe." In respect to this expectation, the draft act makes several provisions. It provides for the protection of human health and the prevention of drinking water health hazards through the control and regulation of drinking water systems and drinking water testing. Also, it provides for drinking water quality standards which define the quality of treated water suitable for potable, that is, drinking water, purposes.

A comment on the explanatory note to the draft act: the standard of care in the draft act applies to those parties responsible for drinking water systems and their testing. It is not clear that the standard of care applies to those parties responsible for forming applications to take raw water: an engineer involved in investigation and application for water; a well driller who does the actual physical exploration for water. Nor is it clear that it apply to those parties responsible for approval of approval of such applications: the person working for the ministry who processes an individual application for a permit to take water. Nor is it clear that approval of an application to take raw water for a drinking water system would carry a tacit approval of the quality of raw water to be taken, or if a stated approval of raw water quality is required for a drinking water system to be in compliance with the act. So there's a whole level of technical input to this process, and I think that some attention is useful in relation to the people and the technical infrastructure associated with drafting and processing of such applications.

The following definitions are taken from the draft act and appear below in the same order as referred to in part 5, recommendations, of this submission. Reference 1 is to drinking water system, part (b), and it says, "a well or intake that serves as the source or entry point of raw water supply for the system."

Now, I have a comment about that one on the top of page 3. The use of the word "source" in this context is different from the use of the word "source" in part II, Administration, clause 3(4)(e). That part of the act says: "a review of the quality of raw water supplies and source protection." The word "source" is used here in a much broader sense than in the case of the well being the source. It is also different from the use of the word "source" in respect of a river, lake, aquifer and other sources of raw water. We have a recommendation in relation to that ambiguity.

It is recommended that the definition "drinking water system," part (b), be changed to remove the ambiguous word "source." Revised, it would read, "a well or intake that serves as the entry point of raw water supply for the system." It eliminates the implication of source, which is misleading and inconsistent with other parts of the proposed legislation.

Reference 2, drinking water system:

"'drinking water system' means a physically connected system of works, excluding plumbing to which the Building Code Act, 1992, applies that does not treat water, that is established for the purpose of providing users of the system with drinking water, and includes:

"(a) anything used for the collection, production, treatment, storage, supply or distribution of water."

Reference 2, drinking water system, part (a), does not include the source of raw water of a system as part of a drinking water system.

Recommendation 2 in respect of comment 2 on reference 2, preceding:

It is recommended that the definition "drinking water system" part (a), be changed to "anything used for the collection, production, treatment, storage, supply or distribution of system's waters." The emphasis of "system's waters" will become a little bit more clear in relation to the next couple of comments.

Reference 3, drinking water health hazard: "drinking water health hazard" means, in respect of a drinking water system,

(a) "a condition of the system or a condition associated with the system's waters."

This definition deals with the broad concept of system's waters and refers to drinking water health hazards within the system's waters, including anything found in the waters.

Comment on reference 3, preceding:

Reference 3, "drinking-water health hazard" part (a), states "a condition of the system or a condition associated with the system's waters including anything found in the waters." This refers to the waters of a drinking water system which includes raw water and raw water supply as defined in reference 4 following.

Recommendation 3 in regard to that comment:

It is recommended that the definition of "drinking water hazard," part (a), be retained as proposed. We suggest retention because it deals with the broad system's waters, "a condition of the system or a condition associated with the system's waters including anything found in the waters."

Reference 4, "waters" in the act includes drinking water, raw water and raw water supply.

Comment on reference 4, preceding: reference 4, "waters" includes raw water supply in the waters of a drinking water system. This says that raw water supply is included in the waters of a "drinking water system." From this perspective, the definitions of "drinking water system" and "waters" appear to disagree: "raw water supply" is not included as an item in the definition of "drinking water system" but it is included in "the system's waters."

Just as an aside, the source of the water is also included in every drinking water system that I've ever helped design. The Lake Huron water supply to London; the Lake Erie water supply to Talbotville; the Peak Springs water supply in Bracebridge etc. So clearly, in the language on the technology of drinking water supply, the source of raw water is characteristically part of a drinking water system.

The Chair: Excuse me, Mr. Chisholm. I should just draw your attention to the fact that we've got about two minutes left for your presentation. You might want to précis your comments.

Mr Chisholm: Thank you very much, Mr Chair.

Reference 5: "deficiency" means, in respect of a drinking-water system, a violation under this act that is prescribed as a deficiency for the purposes of this act.

A comment on reference 5, preceding: "deficiency" means, in respect of a drinking water system, a violation under this act that is prescribed as a deficiency for the purposes of this act. Reference 3, preceding, refers to "drinking water health hazard" in the "waters" of a "drinking water system" and reference 4, preceding, includes "raw water supply" in the "waters" of a "drinking water system." This means that "deficiency" in a "raw water supply" is a "deficiency" in a "drinking water system."

Recommendation 5 in respect of reference 5, preceding: it is recommended that the definition of item 2 in "1. the purposes of this act are as follows" be changed to, "To provide for the protection of human health and the prevention of drinking water health hazards through the control and regulation of drinking system's waters and their testing."

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The last comment, reference 6: "The purposes of this act are as follows, and I'll just read item 2, which we refer to in the recommendation: "To provide for the protection of human health and the prevention of drinking water health hazards through the control and regulation of drinking water systems and drinking water testing."

Comment? No comment on that one. We'll just skip over it.

It is recommended that part II, "Administration," 3(4)(e), be changed to "a review of the quality of raw water supplies and source protection initiatives across the province and establishing and maintaining a register of approved raw water sources and those sources not approved."

I'm sorry, Mr Chair, for taking so long.

The Chair: No, that's perfect. You've timed it bang on, and we very much appreciate your very detailed presentation before us here this morning. Thank you.

CITY OF KITCHENER

The Chair: Our next presentation will be from the city of Kitchener. Good morning and welcome to the committee.

Mr Dwayne Quinn: Good morning, Chair Gilchrist, and honourable members of the committee. My name is Dwayne Quinn, director of utilities for the city of Kitchener. On behalf of the city of Kitchener and its utilities division, I would like to thank you for opportunity to present our views on these important matters.

I am here primarily to speak in support of the principles of Bill 175, the Sustainable Water and Sewage Systems Act. The content of my presentation will provide some background on our utility, our recent history of infrastructure investment, our views on the importance of sustainable water system funding, our offer to assist in the preparation of effective regulations, and a brief comment and recommendation on Bill 195. I would also like to provide an opportunity for you to ask questions on our views.

The utilities division is an integrated gas and water utility that reports to Kitchener city council through the chief financial officer. We serve approximately 55,000 water customers and 50,000 gas customers. Our relatively unique position has been beneficial in providing balanced input to the Ontario Energy Board in the development of their decisions and rules and, most recently, the review of the board itself.

I joined the city in 1994, from the gas industry. At the time, the former general manager of public works expressed concerns regarding falling behind on infrastructure replacement. Simple assessments yielded estimates that we were investing less than 20% of the funds necessary to sustain a 100-year life cycle on the plant. Since 1994, the utilities division has increased investment in water infrastructure replacement by a factor of three.

Over the last 10 years, we have been working on an integrated infrastructure management system that can help us to make better infrastructure investment decisions. However, a portion of the remaining revenue over expenses of the water system continued to be allocated to the city's general revenue fund as a dividend or, as we refer to it, a payment in lieu of property taxes.

In the fall of 2000, we became aware that the provincial government might introduce legislation like Bill 175. The utilities division appealed for the removal of the dividend on the basis of increased infrastructure investment opportunity and proactive funding and rate making. However, that appeal did not make it through the municipal staff budget process because of concerns about the political saleability of its impact on the tax rate. Our infrastructure funding level was kept static.

I provide the above example to illustrate how well-intentioned decisions can have a negative impact on the long-term funding for municipal infrastructure. In making strategic decisions about resource allocations in a municipal context, it is very difficult to quantify quality-of-life impacts. The result is often that municipalities invest in assets that the taxpayer can see and use today, as opposed to investments in unseen infrastructure for the future.

However, in these important decisions, a very important stakeholder is often absent from the discussions, and

that stakeholder is future generations. In November 2001, we submitted a report outlining our concerns about water infrastructure replacement funding. In December 2001, the Sustainable Water and Sewer Systems Act was introduced under Bill 155. Our support of the principles of the proposed act, now Bill 175, is drawn from our view as an integrated gas and water utility. Although the delivery systems are both natural monopolies, natural gas is considered an energy choice competing with other fuels. As such, natural gas utilities are considered for profit and are regulated in the public interest to balance the interests of owners and customers. Water, however, does not have effective substitutes and, as a necessity of life, we believe it should be provided at cost in the public interest. Therefore, there should be no transfer of funds in or out of the city's general coffers.

Further, we believe that the funding should reflect a pay-as-you-go philosophy. As noted above, on behalf of future generations, water utilities should be disciplined in setting aside funds to ensure an appropriate renewal of the system. Not being disciplined would place an enormous burden on the future users of the system when replacement can no longer be deferred.

As a result of our internal report and the prospect of legislative requirements, we initiated a comprehensive study of our water and sewer systems and developed a plan to get back on track. Since the challenge was created over a number of decades, we have developed a 30-year plan of accelerated replacement to get back on track. From that plan, we created a 10-year financial model to determine rate impacts.

I had the opportunity to mention our work to the honourable Ted Arnott through discussions on another issue. I offered our assistance to work with the provincial government in developing regulations that are practical for municipal implementation. Mr Arnott put me in touch with municipal affairs and housing when the legislation was under their ministry, and I have had subsequent contact with the Ministry of the Environment more recently. Our hope is to lend our experience to assist the ministry in ensuring that the regulations provide the outcomes sought without creating unintended effects that reduce the value to general public.

On the Safe Drinking Water Act I would only comment that although we believe in the intent of Bill 195, we are concerned about the lost public value if a bureaucracy is created to ensure utility compliance for licensing and accreditation. Other alternatives such as audit, quality standards or peer reviews may provide a more cost-effective compliance strategy while affording an organizational learning and development opportunity.

In conclusion, the city of Kitchener's utilities division supports the effective implementation of the principles of Bill 175 and stands ready to assist the provincial government in ensuring sustainable water and sewer systems for the benefit of our constituents for decades to come.

Thank you, and I would appreciate the opportunity to respond to any questions you may have about our views.

The Chair: That affords us about three and a half minutes for each caucus. We'll begin with the government members.

Mr R. Gary Stewart (Peterborough): Thank you very much appearing before us today. Just a couple of questions on the operation of your utility. You comment that many customers aren't interested in pursuing something that's kind of hidden; they like to be able to say, "Well, you know, this thing's up front." You can see it, a bald item, whatever it might be and certainly it's more palatable for the taxpayer. But on your utility bills, do you show your water as a separate amount, and is it fully recoverable at the moment or under your new proposal?

Mr Quinn: The water is shown as a separate item on our bill and fully recoverable, yes, but there is not sufficient long-term funding in the rates that we have currently to provide the long-term asset needs.

Mr Stewart: With your proposal for a 30-year plan, how are you going to show that as additional dollars to put into the pot for the infrastructure upgrades?

Mr Quinn: We would embed the required additional revenue into the utility rate and ensure that there is a reasonable life cycle. We'd work with the sewer systems also and define a reasonable full-life term for the assets and balance those interests so there will be a commensurate water rate increase and sewer surcharge increase to ensure both systems maintain an adequate life cycle.

Mr Stewart: Do you feel that it can be fully recoverable?

Mr Quinn: I believe it can.

Mr Stewart: Are Kitchener people supportive of that?

Mr Quinn: I must add on this question and it goes back to—

Mr Stewart: I'm not putting you on the spot—

Mr Quinn: No, I appreciate that, and I want to be very clear in my comments. Before coming to this committee, I approached our council to request the opportunity to do this because it is not something that necessarily everybody will support right up front. We have an action strategy, a communication strategy to get the message out.

1040

Our council does support this. In fact—I was specific in my wording here—our council has not been fully aware of the state of the water system throughout the years. Therefore, when bringing the information to light and talking about the principles, they were in support of the principles. We are concerned about the regulations, and I said I would do what I can to try to make sure the regulations are effective for all municipalities, but certainly specifically to the city of Kitchener.

Mr Johnson: I just wanted to know if the cost recovery on your bills now includes the capital cost of the water system.

Mr Quinn: A portion of our revenues are allocated toward capital replacement; it's the rate of capital replacement that is not sufficient at this point.

Mr Steve Peters (Elgin-Middlesex-London): You talked about drinking water and you talked about sewage. How are you dealing with storm water? Be it through a

combined sewer system or a storm drain going straight into the Grand River, it's taking a lot of runoff into that water system. Should storm water and costs to help improve storm water management be incorporated into costs dealing with water?

Mr Quinn: We believe so. That's a very good question, because we came upon it in looking at our funding. Some of our funding strategies and rate impacts have been deferred to 2004, awaiting the impending regulations. However, this year we made a revision to our allocation of storm water costs to have allocations from water and sewer, along with the tax-based implications of storm water management, all go into funding our storm water management requirements.

Mr Bradley: You should know, first of all, that you may see some of the changes you've recommended in the regulatory framework. Unfortunately it's impossible, with the timelines of this committee—I won't blame the committee Chair for this; he simply is the person in charge right now. But all amendments to the legislation are due by noon tomorrow. So if you think anything said today is going to be easily reflected in the amendments, it won't be. I'm glad you're at least aiming at the regulatory change.

My one question is this: is there any discussion in Kitchener about the privatization of the system, as has happened in some other communities?

Mr Quinn: There has been no formal discussion of privatization. We have studied it from the mid-1990s. We don't believe these public assets should be owned privately, but I am in favour personally of considering all options, including management contracts or others, if that creates an efficiency in the delivery of those services to the public. That is our corporate view and my personal view.

Mr Bradley: We're looking at the capital costs that might be forthcoming. You have indicated your support for full cost accounting and the user paying the entire cost. In years gone by, the provincial government has been a funding partner, at least in the initial stages, where there may be some significant additional capital costs. Would you welcome financial assistance from a funding partner called the provincial government?

Mr Quinn: Recognizing my position, I would not turn down any assistance, but I believe, in the public interest, it should be designed well, helping those areas that have greater need, but only in a transition. I believe that opportunities such as interest-free loans, that type of opportunity, are where a community can pay for itself but be aided in the transition, as opposed to funding which may not be as efficient if designed as a subsidy on an ongoing basis.

The Chair: Thank you for coming before us here this morning. We appreciate your comments.

HAMILTON UTILITIES CORP

The Chair: Our next presentation will be from the Hamilton Utilities Corp. Good morning. Welcome to the committee.

Mr Art Leitch: Good morning. I would like to thank the committee for receiving our delegation. My name is Art Leitch. I'm president and CEO of Hamilton Utilities Corp. By way of my background, I have a master's in environmental engineering and a master's in business administration and over 30 years in municipal utilities: water utilities, waste water, solid waste, energy from waste and electricity. I started my career at the Ontario Water Resources Commission before it became the Ministry of the Environment and, I like to think, before it went downhill. I've worked for both the public and private sectors. Right now I'm working at a hybrid organization, a business company that is 100% owned by the public, the city of Hamilton.

I'm not here to ask this committee for anything. I'm here to offer this committee my unqualified support for Bill 175, Bill 195, full cost pricing for water and waste water systems, sustainable investment in water and waste water infrastructure and safe drinking water. It's too bad we need a provincial law in Ontario to make this happen.

We in Hamilton and the Hamilton Utilities Corp are developing a business case, as we speak, that will look to accelerate investment in water and waste water infrastructure, obviously thereby mitigating health and environmental risks, but we want to do this in a way to mitigate water and sewer rate increases. In doing this, we think we need to have off-balance-sheet financing separate from city financing.

Hamilton Utilities Corp, as I indicated, is a multi-utility holding company. In that respect it's not unlike the Kitchener utilities, which you just heard about from the previous delegation. We hold an electricity distribution utility, a fibre optics utility, a district heating utility, and with this business case we're looking at setting up a water utility corporation.

We firmly believe that the city should remain as the sole shareholder of this water corporation. Water is a public service, it's an essential service, and it's a natural monopoly. We think the city as a shareholder thereby plays an important role in balancing the public interest with the commercial interest of a water corporation.

As I have indicated, in the past I've operated water and waste water utilities, and I can tell you there's a lot of duplication in service between these utilities. We would look, with a multi-utility approach, to taking advantage of cost savings and using those for much-needed investment in water and waste water infrastructure.

We took that approach in Hamilton with the billing systems. At one time, we had separate billing for water and hydro. We combined the billing and it saved over 50% in those costs. Those savings now go back to investing in infrastructure.

The city of Hamilton and the city staff have done a very good job of analyzing the cost-efficiency for investment in water and waste water infrastructure. They have done, with their infrastructure asset management system, an analysis that shows that they should be spending around \$140 million a year just to have sustainable water and waste water infrastructure. They presently spend

around \$75 million to \$80 million a year on an aging system.

What we intend to do is develop a multi-utility asset management system. Our core competency at Hamilton Utilities is asset management. We believe that water infrastructure must be maintained at the same sustainable basis as the electricity utility in Hamilton. Again, multi-utility operation and maintenance savings could be re-invested in infrastructure.

Our business model assumes an investment strategy to support sustainability, to get the investment up to the \$140 million a year that the city of Hamilton has recognized it needs. We recognize that there would be regulated pricing to protect the public interest and a regulated return to be reinvested in the infrastructure or to mitigate rate increases. PILs, or proxy taxes, should not be paid by the utility corporation. We are in a catch-up position. We need every penny to be invested in aging water and waste water infrastructure.

The water corporation must borrow independently from the city. This debt has to be taken off the city's books so the city can concentrate its spending needs in the areas that it attends to, and the water corporation can now focus on investment and water and waste water infrastructure. Of course, economies of scale and scope could be realized through multi-utility convergence. These are the assumptions on which we're basing our business case as we develop this model.

1050

The corporate financing would see the term of debt much longer than is the case for municipal utilities now, more or less to match the useful life of the water assets. Debt levels would be increased to those typical of corporations, and the corporate debt would be utility-rate-supported with non-recourse financing to the municipality.

We're quite excited about the possibility of this business model being developed in Hamilton. We think it works best in a single-tier municipality like Hamilton where council is responsible for electricity, water and waste water. In Hamilton, we represent a single watershed and we think that's advantageous.

These advantages in Hamilton notwithstanding, we think this corporate model for water and waste water, 100% owned by a municipality, would apply for other Ontario municipalities. Recently our study group visited Edmonton, where a similar model exists with EPCOR, set up under the Alberta municipal act, a successful multi-utility, 100% owned by the city of Edmonton. Last year it paid \$100 million in dividends to the city of Edmonton, with 70% of its revenues generated from beyond the borders of the city of Edmonton.

Overall, our objectives for our business plan are to accelerate sustainability of water and waste water infrastructure, and to achieve financial severability from the city. The city's got spending needs in other areas and they need a separate corporation to focus on water and waste water infrastructure.

We believe our model would generate the lowest rates for municipal ratepayers. If we've learned anything about

hydro rates in this province—utility rates are a sensitive issue in this province and water rates are much more sensitive than hydro rates.

The bottom line: we believe a corporation set up with a bottom line and the commercial discipline that comes from that is needed to achieve cost-efficient service delivery. If there are any dividends after infrastructure sustainability has been achieved, it would be our recommendation that those dividends be paid to the ratepayer, not to the city, and thereby increase public accountability in the delivery of the service.

I want to thank you again for receiving this delegation. As I indicated, we have nothing to ask this committee. We merely wanted to let the committee know of a model that we're working at in Hamilton that we think will achieve some of the objectives of the legislation you're proposing and that we support.

The Chair: That gives us time for questions; three minutes per caucus. We'll start this time with the official opposition.

Mr Bradley: The first impression I catch, and you will correct me if I'm wrong, is that you seem to be indicating your desire to see a virtually independent commission, independent from council. What role would city council play in terms of the future with a multi-utility commission of this kind?

Mr Leitch: Under the model under which we are presently operating, Hamilton Utilities Corp is 100% owned by the city. Our board reports to the city council. We report on a regular basis. One of the advantages I indicated in my presentation that we see city council bringing to this model is this public accountability. Because we're 100% owned by the city, not a privatized corporation, we have that accountability and it is working very well in Hamilton.

Mr Bradley: Who in Hamilton at this time is in charge of the operation of the water utility? In other words, who actually provides the service?

Mr Leitch: It's a municipal department now.

Mr Bradley: So there's no longer a contract with a private sector firm?

Mr Leitch: No, they have a contract for an operation and maintenance contract but the utility is responsible. It's a municipal department.

Mr Bradley: Which company is it that now provides that service you talked about?

Mr Leitch: I believe it's called American Water Works.

Mr Bradley: Is it a successor to Philip Environmental?

Mr Leitch: Yes, it is. Again, this is just an operations and maintenance contract we're talking about. What we're proposing here, and the focus of what we're proposing, is a financing model for financing capital investment in water and waste water infrastructure. That's the critical point.

Mr Peters: In the model that you're proposing, we know that probably 75% of the cost of the work is underground, the stuff that nobody ever sees. With this model,

is this new utility going to pay for all the curbs, gutters, sidewalks, roads, or is that something you're going to collect back from the municipality? Who's going to pay for the overall project? You're going to look after the underground; who's paying for up above?

Mr Leitch: Under this model that we're proposing, the corporation would pay 100% for the water and waste water infrastructure capital investment. Obviously when you do work on a municipal street, there are road reconstruction works involved that are paid for by the city. In the city of Hamilton, we have increased the proportion of road works that are paid for when a water works project proceeds to over 50%.

Mr Peters: What has the success been of the service contract for the operation and maintenance with American waste water?

Mr Leitch: That's a contract with the city and—

Mr Peters: Well, you being an employee of the city, from your observations, has it worked? Has it not worked? Does it need improvement?

Mr Leitch: I think it needs improvement.

Mr Peters: In what areas would you improve it?

Mr Leitch: I think it could benefit from competition when the contract expires, I believe, at the end of 2004.

Mr Miller: I'll be very quick. You were talking about the municipal investment required in waste water and water, basically requiring doubling of that investment. I'm curious as to what sorts of rates consumers are paying currently for their water and waste water in your area.

Mr Leitch: I would suggest it's around \$450 a year for water and waste water, and to reach those sustainable levels of infrastructure would require a doubling of the water and sewer rates.

Mr Miller: So, about \$900 a year for the average household?

Mr Leitch: Yes.

Mr Miller: OK. Still less than \$100 a month anyway for waste water. Do you think there should be a cap on the upper limit of what should be charged, from the consumer's point of view, for water and waste water?

Mr Leitch: No, I don't think so. I think water and waste water systems and full cost pricing are the way to go. I think just a better financing model, though, would mitigate some of these rate increases that we would be seeing with the traditional approach to municipal financing.

Mr Miller: What about in a case where there are very small systems in rural and northern Ontario, where they're just uneconomic, any way you cut it?

Mr Leitch: Again, we indicated that this model does have some particular advantages in Hamilton, but I think the model could work in smaller municipalities to do the same things: to accelerate capital for investment and to have a mitigating effect on water and sewer rates. Obviously, the larger the utility, the more economies of scale you would have.

Mr Johnson: I wanted to know where Hamilton gets its drinking water.

Mr Leitch: From Lake Ontario.

Mr Johnson: Is that satisfactory? Are there intake problem? Has that been a long-time source or is that a fairly recent—

Mr Leitch: No. It's a long-time source from Lake Ontario and the water quality in Hamilton is very good.

Mr Johnson: Do you supply water to any bordering areas? I'm thinking of places that aren't in Hamilton—

Mr Leitch: Yes, Hamilton does that.

The Chair: Thank you very much for coming before us this morning. We appreciate your presentation.

1100

DUCKS UNLIMITED CANADA

The Chair: Our next presentation will be from Ducks Unlimited Canada. Good morning. Welcome to the committee. Early on in your presentation perhaps you could introduce yourselves for the purpose of Hansard.

Mr Jim Anderson: Thank you, Mr Chairman. My name is Jim Anderson. I'm a policy adviser with Ducks Unlimited Canada. I work out of Ontario. This gentleman to my left is Mr Kevin Rich, who is a habitat specialist with the same company. He works in this particular part of the world, so if there is any specific piece of information you would like to know about locally, he's in a position to answer.

Thank you for the opportunity to address your committee. We will restrict our comments to Bill 175, the Sustainable Water and Sewage Systems Act.

From the outset, we would like to commend your government for the commitment made through the Premier to implement all the recommendations in Commissioner O'Connor's part two report. In addition, we would like to compliment your government on the dispatch with which it is moving forward to implement these recommendations.

One may ask why our company would be interested in making a presentation on these matters. I hope to provide at least a partial answer to that question before the end of my presentation.

We are a charitable Canadian company operating across Canada and within the province of Ontario. Our national vision is to conserve habitat for North American waterfowl populations while promoting healthy ecosystems for people and wildlife through sustainable land and resource use by agriculture, industry and urbanization. Our Ontario vision is to ensure that all existing wetland habitat remains for future generations and to have two to three times the current amount of wetland habitat on the landscape in southern Ontario.

Our interest is wetlands, and we believe that wetland habitats are an important component of the multi-barrier approach advocated by Commissioner O'Connor and important to the provision of clean drinking water in this province. It was our pleasure to submit a report to Commissioner O'Connor in which we documented the science between wetlands, riparian areas and water quality.

Simply put, wetlands clean water. Unfortunately, their precise value in that regard is complicated and unique from site to site, watershed to watershed, and therefore some form of watershed-based models will be required to predict with any degree of certainty the precise value of wetlands as scrubbers of water. While the scientific concept is understood, and understood well, and not debated, the precise relationship is not.

We were pleased to see your government address the matter of drinking water source protection through the creation of an advisory committee, a committee, by the way, of which we are a member. We consider this an exceedingly important decision—the creation of the committee, not our membership. Without a policy framework and implementing program associated with drinking water source protection, the job of protecting drinking water is only partially completed. Your government is to be congratulated.

Our review of Bill 175 indicates that the province has recognized the need to develop a business planning framework associated with the extraction, treatment and distribution of drinking water. However, it is our contention that the omission of drinking water source protection planning, management, monitoring and operations is a significant weakness in the legislation. In other words, the legislation provides a sound business planning framework for only part of the drinking water system.

We have 60 years of experience in managing renewable resources, albeit it's a different resource: ducks. We manage this resource across the North American continent, from the northern boreal region to Mexico and even into the southern hemisphere. We must obtain the agreement of two levels of senior governments in the US and Canada and other countries on policies and programs, and we must get them to agree to raise money in one country and spend it in another. We do so through two major instruments: the North American waterfowl management plan, which establishes the overall plan and objectives across North America, and the North American Wetlands Conservation Act, which importantly sets out the financial conventions of implementing the plan.

These plans and legislation have been in place since the mid-1980s. The plan has been reviewed on one occasion and remains the plan leadership vehicle for North American waterfowl habitat conservation. Public decision-makers in partner countries and NGO partners, private-public partnerships, regard it as an international resource management success.

In the formal review of the program—the legislation and the plan—reviewers from all countries had this to say: “While the international convention requires professional, administrative, and partner leadership, the heart of any plan,” particularly this plan, “is money.” In other words, our success rests on the fact that we have a good plan, but most importantly, we have a plan that is funded.

The creation of a drinking water source protection advisory committee is an important step in public policy related to drinking water protection. However, its product

will be somewhat meaningless unless there is a process to take the protection framework and translate it into effective implementation, and that will take a parallel, complementary business planning and management framework.

In urban Ontario, serviced by complex distribution systems, it will be possible to attach source protection as an additional cost and collect funds through the existing water bill if you wish. That will not be possible in rural Ontario, yet our report to Commissioner O'Connor indicates that it is the rural user who is most dependent on source protection activities because in-pipe protection is, generally speaking, not available.

The majority of our work takes place in rural Ontario. I have mentioned previously that we have an international plan and funding arrangement. We have broken that plan down, and from it we have created an Ontario component. This component calls for us to protect all existing wetland habitats and restore two times the amount that exists on the landscape today. This is a significant undertaking. In doing so, we contemplate spending \$100 million over the next decade to pursue this objective. For your information, \$52 million of that will come from outside the province.

The communications industry has coined a word, “convergence,” to describe the process of bringing various communications elements, heretofore quite independent and with a strong history of competition, under common management with the objective of working together and producing higher-quality products at less cost.

It seems to me that some of these same processes are taking place around us. We, the waterfowl habitat people, have been relatively independent, stand-alone, focused on the work of conserving our habitat, as complex as that is, given the migratory and complex life cycles of the waterfowl. But the reality is that the work we do and the products we achieve have considerable relevance to drinking water source protection.

If there is developed, as a result of your committee's deliberations and recommendations to government, a rational, funded financial framework for supporting source protection planning in Ontario, especially rural Ontario, then it may be possible to forge a private-public partnership that would see our efforts at waterfowl habitat enhancement more closely integrated with drinking water source protection. Conversely, if source protection funding remains inconsistent and unorganized, we will continue our course of implementing on our own, with a narrow range of partners, a process that we consider inefficient.

I would point out the Great Lakes region has been identified within the international context as an important area for waterfowl habitat investment. International allocation decisions are influenced, at least to some extent, by the capacity to ensure efficient delivery at the regional level, and the orientation of partners, including public sector partners, is an important indicator.

There are other initiatives taking place across this province beyond those led by your government that also

reflect this convergence of interests. The recent Green-cover Canada announcement made by the government of Canada is one such initiative. This program is aimed at enhancing permanent cover on riparian areas for environmental benefit through agricultural/environmental incentive payments to landowners and could potentially be a strong tool in source protection. There are others.

Perhaps it is time to consider capitalizing on this convergence of interest. Perhaps it is time to invite others into the source protection tent. However, to make your invitation attractive, you must organize not only the policies and the programs but also the business processes that take place.

Thank you for your time.

The Chair: Thank you for your presentation. That gives us two minutes per caucus for questions. We'll start with the NDP.

Ms Marilyn Churley (Toronto-Danforth): Good morning. Sorry I was a bit late. I got cut up in a storm in northern Ontario, where I was for the weekend.

Thank you for your presentation. It's very interesting work that you're doing, some of which I didn't know about, to be honest, and I'd like to know more later; we don't have time now. Just on source protection, I have these neat little booklets from the US, mostly to do with their Environmental Protection Act. They put out these little pocketbooks telling about the act—that's the national program—and how to protect their water. One of the things I wanted to ask you about was the kind of work you're doing with the US, specifically on source protection.

1110

Mr Anderson: We're a stand-alone Canadian company, but we have a partner organization called DUI in the United States. That is the vehicle that flows dollars and also flows science back and forth across—

Ms Churley: So what kind of work do you do?

Mr Anderson: Basically restore wetlands on the landscape.

Ms Churley: That's mostly what you do.

Mr Anderson: Restore in terms of area and in terms of function. Function is equally important to area of wetland, the fact that they do act as natural scrubbers of water. A highly functioning wetland is good duck habitat but it also scrubs water.

Ms Churley: OK. Thank you very much.

The Chair: For the government; Mr Murdoch had his hand up first.

Mr Bill Murdoch (Bruce-Grey-Owen Sound): I'll be quick, Bert. Thanks for coming here today. I certainly appreciate it. The source protection act is going to have to come after this one. As you know, we're doing studies right now, especially in this area, with the conservation authorities. When we get all the studies done and all that work done, there will be another act presented.

On the other thing, on the funding, I was going to mention that right now we have a committee that sat with AMO for the regulations for Bill 195. That was one of the concerns, that some of this is how we're going to

fund it. After that, we said maybe in the new year we'll go on with that committee and look at funding. I'll maybe have you in for one of the meetings and we can discuss some of your concerns on that.

Mr Anderson: It would be my pleasure.

Mr Johnson: I just wondered if you have some members who are involved in the Luther Marsh. If so, what do you do?

Mr Kevin Rich: Yes, we are, actually. Just in the last year, we've formed a partnership with the Grand River Conservation Authority in the land stewardship network, which is coordinated through the Ministry of Natural Resources, working with a number of other local partners to encourage landowners to conserve and restore wetland habitat across the Upper Grand watershed, so the target area is the Upper Grand watershed.

The Chair: Thank you. For the official opposition?

Mr Bradley: Thank you very much. I notice you make reference to the North American Wetlands Conservation Act. Is that the act whose official signing is this week? There is an act, I understand, being signed officially this week, a ceremony of some kind in the US—although I thought it existed previously as well—which allows funds from the United States to be spent in Canada, and that would be yet another way we could elicit some funds to meet the obligations we will have under the water protection act. Is that what we're talking about?

Mr Anderson: No. The North American Wetlands Conservation Act was created, I'm going to say, in the mid-1980s. I think there have been 10 amendments. There are protocols to it that talk about how funds flow and the relative magnitude of funds flowing. But there is a convention in place now for funds to flow from the United States to Canada and into Ontario.

Mr Bradley: Yes. My understanding was the same as yours, that it has been in existence for a long time. I was surprised when I saw reference to a signing ceremony of some kind or a celebration of it somewhere, and it was to be this week.

Mr Anderson: My understanding is that there's an additional annex to that bill that talks about refreshed funding formulas based on the magnitude of funds raised, that that's what is being signed.

Mr Bradley: That's encouraging news for us, because we are looking for ways to derive funding, particularly for the source protection of water.

Mr Peters: How do you hope to achieve your goal to have two to three times the current amount of wetland habitat found in southern Ontario? How is that going to happen?

Mr Anderson: Basically influencing public policy, and working and leveraging with partners—conservation authorities, local government municipalities, and we have a standing permanent agreement with the Ministry of Natural Resources right now—accelerating that in terms of restoration. The one comment I would make is that it is possible, we know now, after 25 years of working in Ontario, to restore landscapes and to restore wetlands. You can do it.

The Chair: Thank you very much, gentlemen. I appreciate you coming before us here this morning.

BLUE MOUNTAINS FEDERATION OF AGRICULTURE

The Chair: Our next presentation will be from the Blue Mountains Federation of Agriculture. Good morning. Welcome to the committee.

Ms Edith Tyson: Good morning. We're not used to this.

The Chair: Nothing to worry about. The floor is yours.

Ms Tyson: Good morning, distinguished panel and guests. Let me introduce myself. I am Edith Tyson and this is my neighbour Jackie Hendry. We live in the town of the Blue Mountains on top of the mountain. Can you imagine living in an area so close to Georgian Bay and Collingwood and having to be concerned about our water?

The town of the Blue Mountains is a major tourist area. There is already high demand for fresh water from Interwest, Blue Mountain apple orchards, farming and light industry. With the population of part-time and full-time residents increasing, the strain on our fresh water has never been stronger. Water taking is removing water from an aquifer or stream. This water is bottled and sold. Water is a natural resource and is a necessity of life.

Gibraltar Springs is approximately one and one half miles from my home. This is a on-site water extracting and bottling plant, currently with three deep wells. The Springs has been permitted to take one million litres of water per day. An application to increase the size of their building by five times and to increase their water extracting has area residents in a need for great concern. The MOE has already issued a permit for four million cases a year.

This situation is fairly typical of most water bottling operations. There are 50 licensed water removing plants in Ontario. These industries are increasing substantially with a growth rate of 15%.

Residents depend on private drilled wells for their water. When wells are drilled through layered shale rock it is a natural aquifer. The shale is layered rock-water-rock, similar to a sandwich effect. When the aquifer is drained we cannot necessarily drill a new well and get water. The deeper the well, the more minerals are found, leaving the water potentially undrinkable.

At the present time, wells and small streams which have been functioning for years are going dry. We have had droughts before but have never suffered to this extent. To everyone's fear, this fall our area wells have now started to go dry.

In the AEMOT study report, with attached map, there is a large coloured area in Ontario relative to water table levels that are in danger. The area that is most endangered is right on the escarpment, town of the Blue Mountains. Our water situation is crucial for our survival and livelihood, not to mention our streams and wildlife.

If steps are not taken immediately, potential damage is imminent.

The question is, can the aquifer withstand water taking? There's no proof, but we're not experts.

The Chair: Thank you very much. That affords us lots of time for questions, I'll say three and a half minutes per caucus. This time we'll start with the government members.

Mr Johnson: I just wanted to ask a little about the map because I don't see Duntroon. Where is Duntroon on the map?

Ms Tyson: I got it from a guy—we had a snow storm—and I asked him where we were. He said, "Take your finger and hit the centre." So Duntroon would be east of there, on the east side of that map.

Ms Jackie Hendry: It's also much lower than the concerns that we have. You have to remember that if you could take this table and put our little hill up there, this is us, and we all know water runs downhill. Our concern is what's coming out of here, because we won't have any more left as it runs downhill. Our concern is the top of the mountain.

Mr Johnson: Are you talking to Eugenia?

Ms Hendry: Yes.

Ms Tyson: There's a large area and there are a lot of water takers. There are 50 in Ontario, but I think within about 10 miles of us, there are probably 10.

Mr Johnson: OK. How far are you from Red Wing?

Ms Tyson: Eight miles.

Mr Johnson: That's the way the crow flies, because that's—

Ms Hendry: Here we go to the centre again; here we have Red Wing, Eugenia, over the hill—

Ms Tyson: Collingwood down here.

Ms Hendry: Yes. You've got to put this into perspective. We all call it a mountain, and we know it's not BC. But you've got to remember this is a point like this, and this is this pristine water, and it's going out rapidly. The Ministry of the Environment, as we sit here, has already given them a permit for 14 million cases per year under the existing permit. While we sit here and talk—

Mr Bradley: What was that figure again?

Ms Hendry: That's 14 million per year under the existing permits. They already have that.

1120

Mr Johnson: And your point is, because you're representing the federation of agriculture, that the taking of water and that kind of thing has nothing to do with farming or—

Ms Tyson: Oh yes, it has a lot to do with farming.

Ms Hendry: Agriculture is farming.

Mr Johnson: But the bottling, you're not calling that farming?

Ms Hendry: They call it farming, sir. That's the point. I think Mr Murdoch would be more familiar than us, but under NAFTA, it is called farming. They are farming water.

Mr Johnson: That's a new take on it. Anyway, I just wanted to get the physical part of it. As you can tell from

some of my questions, my mom grew up on the mountain and my cousin is one of your councillors.

Ms Tyson: I'm sorry about that map. Like I said, we had a lot of snow. I went into the guy's house and he was busy.

Ms Hendry: We did the best we could.

Mr Murdoch: It's not only a concern in the mountain. A lot of our good springs are right in Grey and Bruce and the water runs out. It's something that's going to have to be in when we get this source protection. That's what it is; our source.

Ms Hendry: It is. It's the head springs, actually.

Mr Murdoch: I think there's going to have to be something done with this. We've just had a case heard, which is probably good news. I believe they're going to have to put a moratorium on it, especially in our area. I think we in Grey and Bruce have the best water in the world probably, and they really want to take that water. You're right; there are a lot of permits that are issued now and it certainly should be looked at before there are any more. Of course, with the dry season we had this year, a lot of our wells are going dry.

The Chair: For the official opposition, Mr Bradley.

Mr Bradley: It's a startling figure that you've drawn to our attention, that the Ministry of the Environment has issued a licence for 14 million cases per year.

Ms Tyson: But that's not a lot.

Ms Hendry: That's one of the few that they've issued.

Ms Tyson: They issued one on November 16 just back behind us again. They changed their name. I found that out.

Ms Hendry: A mile and a half away from Gibraltar Springs, altogether what are there—50 water-taking places in our general area?

Ms Tyson: No, no. There are 50 in Ontario.

Ms Hendry: Fifty in Ontario.

Mr Bradley: Would you recommend, then, a moratorium on the issuing of any further permits for bottling of water, at a minimum, until such time as there is an assessment of how much water is available? Even in the long term, even if we find out how much is available, it seems to me you've identified a problem that, if you have to go deeper, you're more inclined to find minerals in the water, and the water is not going to be as useful to you. Would you be in favour of a moratorium?

Ms Hendry: Yes, 100%, until such time as technology can prove beyond a shadow of a doubt that there is plenty of water, so that ensures us that our farms, or our home, for those who have homes—it's an assorted community. If I tried to sell my farm with no water on it, or tried to ask my cattle to drink from a bottle, these are impossible questions. So until such time as technology can prove beyond a shadow of a doubt, it should be stopped—not only Gibraltar Springs but each one as they go along. The Beaver River is right where Gibraltar Springs is, plus Ice River Springs plus the new one that's been there. The list goes on.

Mr Bradley: How much notification do you get when there is a new application for a licence? The people in the

area would like to know, obviously, when there is, in the general area, an application coming in. Do you get any notice of that at all?

Ms Hendry: No notice, absolutely no notice.

Ms Tyson: It's on the Ministry of the Environment Web site. The lady from the ministry, Heather Pollard, told us that the only way we can keep track of it—and it's a huge Web site, as you know. She said, "Look every two weeks and see if another application comes through." I heard about this Paradise one just because I talked to another neighbour who is watching the Web site every two weeks. Your neighbour can build a shed and you are asked, right? But in this case, it's very secretive. John Hartley has been arguing back and forth. It's a very secretive course that they take.

Ms Hendry: Not to mention that I, for one, don't have a Web site. My life is too busy for a Web site. Those are the facts.

Interjection.

Ms Hendry: If I had time, yes.

Ms Churley: I think you are experts. You're not scientists, but you're the ones who live in the area and see what's happening, and that's really important information for this committee to have.

I was very grateful to hear Mr Murdoch sound as though he would be in support of a moratorium on water taking. You would recall, Mr Bradley, that in estimates I questioned Minister Stockwell about water-taking permits and the way they are given out for a small fee. I suggested that I supported a moratorium at least until the source protection act is in place and we've done the studies. I was roundly chastised and ridiculed for coming up with that suggestion, so I'm glad to hear there is some Tory support for that.

Mr Bradley: You had better tell them who did that, who chastised you.

Ms Churley: It was Mr Stockwell, the Minister of the Environment. They made fun of me for even suggesting the thing. I did make some caveats that in some farming situations that moratorium might have to be lifted in certain circumstances, but we really need it.

I want to touch on two points beyond that. This gets us into two areas. I believe we need the moratorium. We can't wait until the source protection act comes; we don't know when it's coming and this is critical. It also takes us into the full cost recovery aspect of the bill, which you may not be aware of, but one of the things we're talking a lot about is people having to pay full cost for their water. We haven't figured out the model for that yet, but certainly I say that senior levels of government should put in capital funding for infrastructure costs, but the other piece of it is that source protection is not included in the list of things that would come from that cost recovery.

What I want to ask you is—these companies now get the water for free. They just have to get their permit. If we're going to a full cost recovery mandate, how would you feel about their at least having to pay for the water they would take?

Ms Hendry: I'll just bring one sample in here. The gravel pits, as you know, are regulated to death. You probably all know that they have to pay so much per cubic yard into restoring the gravel pit when it runs out.

Ms Churley: Yes.

Ms Hendry: Here we have the water bottlers who are taking a natural resource that's unrenewable when it's put in a bottle and taken to the US, and they're not paying anything to even quench our thirst in the fact that we may not have water—it's just too bad for us. I think that, first of all, it shouldn't happen, and if it has to happen, then they should be paying a very high price for taking something that doesn't belong to them because they're taking a natural resource that's unrenewable.

Ms Churley: Have you had any local meetings with your local council around these issues?

Ms Hendry: The issue in all our meetings—there have been many and people turn out because it's a concern—is that without water we don't exist.

Ms Churley: Exactly.

Ms Hendry: What we don't understand is, and I'd like to turn it around and ask you a question, how come the Ministry of the Environment are untouchables?

Ms Churley: I can answer that question.

Ms Hendry: I wish somebody would answer that question because—

Ms Churley: There are Tories who would give a different answer, but they've been really cut to the bone in terms of their resources in the front-line staff, which is a major problem, but I also believe that on the whole water-taking issue, it's only in the past few years, I believe, that—

Ms Hendry: In excess of 12 years.

Ms Churley: Yes, but I believe it's only in the past few years that, people have been really starting to pay attention to it. I learned from the way I got into politics as a citizen activist that now is the time to—my advice is to ratchet up that activism you clearly have happening and really start pushing the ministry through your city council and your mayor. The squeaking wheel does get heard.

Ms Hendry: But we had to learn this: the municipality has no control over the Ministry of the Environment—

Ms Churley: That's right. Maybe we should talk after, if you're going to be here. I'll give you some—

The Chair: Some would say the government has no control either, but that's another story. Thank you very much for coming before the committee here this morning. We appreciate your comments.

1130

CONESTOGA HEAVY CONSTRUCTION ASSOCIATION

The Chair: Our final presentation this morning will be the Conestoga Heavy Construction Association. Good morning. Welcome to the committee.

Mr Geoffrey Stephens: Good morning. My name is Geoffrey Stephens. I am the president of the Conestoga

Heavy Construction Association. Our organization represents over 30 sewer, water main and road building companies, and we are pleased to have this opportunity to present our views on Bill 175.

Joining me this morning to help make this presentation is Mr Arnold Van Winden, the past president of the Conestoga Heavy Construction Association. Our association felt so strongly in supporting this bill that we thought it was important to have more than one person representing our collective views.

For those members of the committee who are not familiar with the geographical area covered by the Conestoga Heavy Construction Association, we are primarily contractors working in the Kitchener, Waterloo, Guelph and Cambridge areas. It should be noted that our association also covers Brantford, Woodstock, Stratford and parts of the county of Wellington.

This association started back in 1979, when we had only a handful of members. As I indicated earlier, we have grown into a strong association with over 30 members. To illustrate the scope of work our member companies complete in a typical construction year, we carry out approximately \$300 million worth of work and collectively employ approximately 1,500 people.

I hope I have provided enough evidence to truly show our association is actively involved in the construction and rehabilitation of the region of Waterloo's network of water and sewage systems. I can say without any hesitation that our members are very supportive of Bill 175, and I believe it is long overdue.

Our association feels this legislation is necessary to ensure that Ontario's water and sewage systems are financially and environmentally sustainable. In addition, the bill is good for public health and the health of our society in general. Currently, we are faced with a significant water and sewage infrastructure deficit that we must begin to address.

I think it is important for the committee to know that I am also president of Capital Paving, located in Guelph, Ontario. Capital Paving is primarily a road building company and we employ over 125 people. We focus on asphalt paving, concrete curb and gutter, and associated road works. Our company is involved in some sewer and water main works; however, this is not a significant portion of our business.

In my capacity as president, I have had the opportunity to price work all over the Conestoga area and can see first hand some of the deteriorating infrastructure in our municipal road systems. In my opinion, full cost pricing would help ensure a continuous investment in our municipal road and sewer programs. Full cost pricing would be a method whereby municipalities could ensure they are continually investing and recovering costs from consumers and investing in our water and sewage systems across the province.

We support Bill 175 and are especially encouraged to see a section in the legislation that requires municipalities to have dedicated reserve accounts. I have seen countless times where road and sewer programs have been slashed

and, in some cases, cancelled altogether due to budget cutbacks and political redistribution of funds into other government services. For my part, I feel this is short-term thinking and, in the long run, twice as costly.

We can all relate to the importance of replacing the shingles on our home rather than waiting until you have a total roof failure. Likewise, our company, like many others, invests in preventive maintenance on all our equipment, which saves us time and resources in the long run, by avoiding costly breakdown repairs.

To summarize my point on full cost pricing, I would encourage the committee to apply this thinking to our road and sewer infrastructure by continually investing in these systems. This will allow for continual maintenance and we will not have to resort to a full and more costly collapse of the systems.

In the wake of the Walkerton tragedy, what I think is really relevant here is that full cost pricing will give us, and all of Ontario, a restored sense of confidence that our water and sewage systems are environmentally and financially sustainable, and that health and safety have been protected.

Our association has been a proponent for full cost pricing and accounting legislation for many years. We believe it is a significant part of the solution to upgrade our clean water infrastructure while protecting public health and the environment. It is also a means to stabilize business cycles and planning for all parties involved. As a result, we wish to commend the government for having the resolve to finally move towards implementing this policy.

The federal and provincial governments have been actively subsidizing water and sewer infrastructures with a variety of programs throughout the years. Unfortunately, unintended impacts of these subsidies have sometimes led to municipalities using them to reduce rates rather than maintaining and, more importantly, renewing this infrastructure. The end result is that rates do not reflect costs and, invariably, many municipalities do not know what the true costs are for providing these services.

If we take this one step further, if municipalities are not passing on the true costs to consumers, the consumers will also be misguided as to what true water costs are. In my opinion, consumers are more likely to conserve water and act more responsibly in their use of water if they are charged the true costs of providing these services. I am sure I am not the only person in this room this morning who has traveled down subdivision roads on a rainy day, only to find many sprinklers turned on. I am confident that this type of waste would be reduced with the implementation of Bill 175.

At this time, I would like to ask my co-presenter Arnold Van Winden, of Regional Sewer and Watermain, to conclude our address to the committee.

Mr Arnold Van Winden: Good morning, Mr Chairman and members of the committee. My name is Arnold Van Winden. I am the past president of the Conestoga Heavy Construction Association, and I am the treasurer and one of the owners of Regional Sewer and Watermain

Ltd. Regional Sewer and Watermain Ltd is a privately owned general contractor that employs 40 people. I am pleased to have this opportunity to present my views on Bill 175.

Regional Sewer and Watermain Ltd has been in the sewer and water main industry for 16 years and works predominately in the land development sector installing new water mains, new roads and new sewers. Our company operates out of Cambridge, and most of our projects are within the region boundaries of Waterloo and the county of Wellington.

Naturally, our company is committed to the maintenance and expansion of the province's vast network of water and waste water systems. We are, therefore, supportive of Bill 175 because maintaining a plentiful, healthy water supply requires a continuous investment by government and consumers.

This legislation is an important step toward ensuring that Ontario's water and sewage systems are financially sustainable, good for public health and environmentally friendly. Currently, we are faced with a critical need to invest in our water and sewage infrastructure.

We have been a proponent of full cost pricing and accounting legislation for many years. We believe it is the only way to secure much-needed new, upgraded infrastructure and to protect public health and the environment. It is also a means to stabilize business cycles and planning for us, as contractors, and for municipalities. With this in mind, I want to commend the government for moving to implement this policy. I believe this bill will be one of the most important legacies of the current government.

We support Bill 175 and are particularly pleased that there is a section in the legislation that requires municipalities to have dedicated reserve accounts. While we believe the bill is a good framework, it is our view that it must be strengthened if we are to achieve the goal of creating sustainable water and sewage systems. As the bill now stands, there is too much left to regulation and not enough provisions entrenched in the legislation.

For example, and I know this is outside of waterworks, we are presently paying a road tax to the federal government—and this gets to me whenever I see the statistics—for gasoline and diesel fuel. This road tax was introduced to provide funds for the maintenance of our road infrastructure. These funds, however, were not entrenched as dedicated funds, ie, funds that would be spent only on improvements to roads and road infrastructure. The legislation was too loose at that time, and now our federal government puts the majority of the funds generated by the road tax into general coffers and they spend it as they wish.

Another example: in the region of Waterloo I have witnessed the funds being budgeted for roads, sewer and water main projects in their five-year capital plan and their 10-year capital plan pulled out of their capital budget and deferred to social programs. Taking funds away from the capital budget can be a short-term solution to a budget shortfall, but it is short-sighted. When water

mains, sewers and roads are not maintained, the cost of their replacement is much greater. The taxpayer, in the long run, will pay more taxes to pay for the same end product.

I cannot stress enough the importance of strong legislation that places the funds that are generated by this bill into reserve accounts. Municipal politicians must be prevented from dipping into these funds to fund their own pet projects.

The fear of private ownership of water and sewer assets is being raised in the media. I am not in favour of the infrastructure of our municipalities being sold to private interests. Municipalities do not operate for a profit, and I believe municipalities won't become insolvent as quickly as private ownership.

I am aware that the Ontario Sewer and Watermain Construction Association has made suggestions to strengthen the bill, and we support these amendments. I will not reiterate the amendments in detail, but I do want to emphasize the need to gradually phase in full cost pricing over time, probably five to eight years. The municipalities will require time to adapt to this legislation and implement their programs.

In addition, I believe the Ontario government should continue its OSTAR program and the federal government should continue its green municipal infrastructure program to help provide some transitional assistance for smaller and poorer municipalities. This will help municipalities manage the transition to full cost pricing and protect consumers from undue rate hikes.

The legislation should include the mandatory use of metering. I was actually surprised to find that metering was not mandatory. Metering is an efficient way to track the amount of water used for the purpose of billing. Each consumer will see exactly how much water they use and then calculate its cost. Metering will promote conservation by rewarding those who use less. Metering is also an effective way of finding leaks and theft. When water is unaccounted for, municipalities can investigate to find out where the water is being lost. Without metering, municipalities will not efficiently monitor and bill water use and conservation will not be rewarded.

If this legislation and the proposed amendments come into force, the government will need to ensure both environmental and financial compliance by municipalities. This may be a monumental task for one ministry alone to oversee. To address this, we agree with the suggestion that the best way to ensure that the legislation is implemented as intended is to amend the legislation to dictate which ministry is responsible for overseeing the environmental aspects of the bill and which ministry is responsible for the financial aspects of the bill. The Ministry of the Environment should be responsible for environmental oversight, while the Ministry of Finance, SuperBuild, should be given financial oversight responsibility.

I am not alone in supporting Bill 175. On page 299 of his report on Walkerton, Justice O'Connor said: "In my opinion, if passed into law, the act will address many of

the important issues ... that I discuss in this section. The requirements for a full cost report and cost recovery plan, as generally expressed in the proposed act, are in my view appropriate."

Thank you again for the opportunity to address the committee, and I look forward to your questions.

The Chair: Actually you've hit, bang on, 15 minutes allocated for your presentation. I compliment you on your timing. Thank you very much for coming before us this morning. With that, we stand recessed until 1:15.

The committee recessed from 1144 to 1317.

CONCERNED WALKERTON CITIZENS

The Chair: Good afternoon. I call the committee back to order to focus our hearings on Bills 175 and 195. Our first presentation will be from Concerned Walkerton Citizens. Welcome to the committee.

Mr Bruce Davidson: I'm Bruce Davidson. This is Ron Leavoy. I'm vice-chair and Ron is chair of Concerned Walkerton Citizens. We'd like to begin by complimenting the government on the work it has done so far on this act. There are some very worthy elements in the Safe Drinking Water Act that I think will provide some of the nuts and bolts of protection for the people of Ontario. However, if we felt that's where it would end, we wouldn't be here today, obviously.

We believe that the government has to take a much broader and more holistic view toward the protection of water in this province. We believe, as citizens who have endured this tragedy and made quite a study of water and water protection since then, and had contact with a number of other groups from across this country, and related to their experiences and their concerns, that we are in a unique position to really give some advice on regaining citizen trust in public drinking water. We feel that it's absolutely essential that the government not only will be seen to be protecting the public, but to be actually carrying out all the necessary steps to do so.

We are going to share this presentation and we are going to cover four areas very quickly: watershed protection, some concerns that we have that tie into pipeline considerations for the future, nutrient management, and emergency preparedness. Some of these areas may not seem like they fall directly under the water bill as it stands now, but we believe that they are crucial to consider as elements that are involved in the protection of water in this province because they all tie in. I'm going to turn it over to Ron to talk briefly about watershed protection and the pipeline considerations.

Mr Ron Leavoy: In the Walkerton Inquiry report Justice O'Connor premises all his recommendations beginning with a safe and secure drinking water source. After what had happened to our water and seeing the results of not having a secure watershed—that's one of the highest concerns that we have. As a lay group we can really see the importance of protecting your watershed. It's all fine and dandy to have protection from the pump-house to the tap, but it's a lot easier if you don't have to

clean up problems that are happening in the watershed. In order to do this you have to have all the funding and resources allocated to be sufficient to guarantee actual watershed protection. That includes funding for conservation authorities and other ministries that are going to be involved. When you get into rural areas, you're going to be working with the Ministry of Agriculture. If you want to keep cattle out of water streams and such, you have to include everybody in this. You have to give them the resources in order to do that, which is funding and people. You need inspectors to be out there looking after the law. Well 5 in Walkerton is a perfect example of what happens when you don't protect your source. It was put in a swamp right next to agricultural land and you were just asking for something bad to happen. In hindsight, when you look at it, it was probably one of the single worst places you could have put it.

With the experience we've had over the last two and a half years trying to find out what happened in Walkerton, we've really seen the importance of tracer testing. When you want to find out what your watershed is doing, you have to tracer-test it. Computer modelling is all fine and good, but we've shown here that it was so far away from the truth that, when you're dealing with bacteria, time is such a factor. You're depending upon your overburdened system to filter out all the bad stuff, but it's not because the time isn't there for that to happen. That was the case here. Instead of taking a month for water to travel to a well, it was travelling there in hours. Bacteria can live, and you're expecting something to happen that is not happening. We've really found the importance of tracer testing to be able to understand what's happening under the ground. One of the things we found here was the type of hydrogeology we were dealing with, which was Karst. That is a whole gamut of problems in itself, when you're dealing with that type of aquifer.

We'll try to speed right along here to leave room for some questions, so I'll get into the pipeline. I sit on the public advisory committee for the environmental assessment that is happening in Walkerton to find a new source for water. A pipeline is one of the solutions that was identified, but it's not the only solution. In recent months or weeks, there's seen to be so much emphasis put on acquiring a pipeline, looking for funding for a pipeline, and it's really disturbing to myself and to the rest of the members on the public advisory committee. We think that it's such a necessary part of public consultation to have a public advisory committee and to take it seriously, but then we read in the media where they're looking for funding for the pipeline, and the same emphasis is not being put on the other solutions we have that are going to cost so much less. We're not saying that the pipeline is not a solution, but all the data are not in. We haven't done our final work on this yet, but we keep hearing the rumour that that's the push.

Right now, there are six pipelines proposed for Lake Huron and Georgian Bay. That opens up a whole area of concern. We're worried that if people are getting their water through a pipeline, they're not going to care about

what they're doing to the aquifer in their town, their rural water supply, or whatever. That is a real concern for us. It's a concern for First Nations. They're worried about that. They're worried about what's going to be coming back to the lake. Just to bring that point up, we do have a lot of concerns over the pipeline issue.

Mr Davidson: I'm going to touch briefly on nutrient management. I realize this is covered in separate legislation, but what I think is so important is that, in consideration of nutrient management, watershed protection and the Safe Drinking Water Act, all acts must work together in a seamless fashion. We can't have a situation arise where one municipality or one official who is in a position of authority, with whatever ministry, is saying, "This is permissible," and 15 kilometres down the road they have a different view of that. We must work very carefully to make sure that protection is in place.

I've used a word in the presentation here, talking about large agricultural operations. People are phoning us still with a concern saying, "We think they're trying to sneak something in before the rules take hold." We have to be very much aware of the fact that, if an operation is allowed to go into place today, we may suffer the consequences tomorrow. I don't know how you're going to deal with that, but we have to bear in mind that we can't have anything that is potentially going to violate the sanctity of the aquifer that we're drawing our water from or the watershed.

In terms of enforcement, we are very much against enforcement happening at the local level. We don't believe the municipalities will have the expertise or the resources. That's a major concern for us.

We're also concerned that the lure of having economic activity in a given community may be very appealing if the community involved is not looking carefully at the protection of its water sources. We believe that has to be uniformly enforced across the province. If we don't do that, we're going to have a situation where one municipality may threaten the water of another unintentionally, but if it's not a priority in that community, we may fall through that crack and suffer the consequences.

Emergency preparedness may sound like a strange thing to have in a water bill, but we need to have it in there somewhere. One of difficulties we have, no matter how carefully we plan for these events, is that all the best, laid plans can go awry. We only need to look back at recent history where events have taken place that no one was prepared for and we've seen the tragic consequences. So what we need to do is not only compel each community to have a really professionally prepared emergency preparedness plan, but they need to act on it. It can't stay on the shelf and collect dust. They must be prepared to practise, rehearse and go through their plan.

We had one in Walkerton that was not put into place during our emergency. That was a tragedy. It was not utilized to its best advantage. When an emergency strikes a community, we need to have an emergency team dispensed to that community by the province that can take a look at the situation and take charge. This will

eliminate any suggestion that there are partisan considerations taking place during that emergency, which doesn't work well for the people. It's counterproductive for the citizens of the affected community and, quite frankly, it's counterproductive for the politicians as well, because you're going to be second-guessed on everything you do. The local municipality can run its daily affairs, the province can go about being supportive, but we need people to take charge and say, "Look, this is what the situation is."

In terms of declaring an emergency, that should not be at the discretion of the local politician. There are clearly outlined procedures and criteria for declaring an emergency provincially. We need to follow those, and we don't want to have ever again the suggestion whether an emergency is called or not called may have to do with the vulnerability of the politicians involved. That is not helpful and it retards the recovery. The whole purpose of emergency preparedness is to protect the community with planning and to help it recover in the event of a tragedy. So we need to look at that very carefully, as well.

I'm very concerned about the brief nature of these consultations. I'm hoping that you're going to get it right, but with such a brief period of time, there's a lot left there that may go unsaid. Justice O'Connor has laid out some clear plans. I don't think we can cherry-pick from his report; I think it has to stand as one piece of work and we have to work to implement that.

In closing, I would suggest to you that the Concerned Walkerton Citizens and other interested community groups that are stakeholders, be they community groups or environmental groups, should be invited to make presentations regarding future legislation on watershed protection. I think that you need to garner all the advice you can get from experts and from people at the end of the pipe, to hear their views and come up with the very best legislation that you can. Thank you.

The Chair: Thank you very much. That leaves us about two and half minutes, so I'll give all the time to Ms Churley.

Ms Churley: Thank you very much for your presentation. I imagine that to you and the people of Walkerton, there are pretty important bits of legislation coming forward that you want to take a good look at. I have to agree with you that there has to be the legislative linkage between all those pieces of legislation that you mentioned, plus the source protection act that should be coming at some point.

You haven't had a chance to look at the legislation, but I wanted to ask you about this. CELA representatives expressed a lot of concerns about the legislation and I've expressed some concerns about the legislation. You may not realize it, but we have to have our amendments in tomorrow, and clause-by-clause on Wednesday, while these hearings are happening. This suggests that there's not going to be a lot of time to incorporate suggestions into the legislation.

Because of the concerns, CELA suggested that even though this is a very important legislation and we need to

get it on the books as quickly as possible, in order to get it right, we should actually delay it over the winter period, work on it and bring it back for final and third reading in the spring session. I wonder how you feel about that.

Mr Davidson: I absolutely agree with that. I think it's important that you get it right the first time, because we don't want to be in a situation where there's a loophole in this legislation and it allows someone to basically violate a watershed. That doesn't mean we can't be absolutely vigilant till then and keep working toward that goal. But getting it right is much more important than getting it quick. I think the public would agree with that.

1330

Ms Churley: Have you been asked to sit on the advisory committee on source protection?

Mr Davidson: No, we have not. We feel very strongly that if groups such as chambers of commerce are invited, the actual citizens of communities—and there are a number of them who would like to be part of that—should be invited to do so.

Ms Churley: Is my time up? OK. I can discuss this with you later.

The Chair: Thank you very much for coming before us here this afternoon. We appreciate your comments.

SAUGEEN VALLEY
CONSERVATION AUTHORITY;
GREY SAUBLE
CONSERVATION AUTHORITY

The Chair: Our next presentation will be from the Saugeen Valley Conservation Authority and the Grey Sauble Conservation Authority.

Good afternoon. Welcome to the committee. Perhaps, if you weren't planning to do so anyway in your comments, you could introduce yourselves for the purpose of Hansard.

Ms Anastasia Sparling: I'm Anastasia Sparling, Grey Sauble Conservation Authority vice-chair.

Mr Jim Manicom: I'm Jim Manicom, chief administrative officer, Grey Sauble Conservation Authority.

Mr Jim Coffey: I'm Jim Coffey, general manager and secretary-treasurer, Saugeen Valley Conservation Authority.

Thank you very much for the opportunity to address the standing committee on general government with our views on Bill 175, the Sustainable Water and Sewage Systems Act. Delton Becker, our chairman of Saugeen Valley Conservation Authority, was not able to make it this afternoon, and therefore I am speaking on his behalf.

From the outset, we would like to commend the government for the range of initiatives it has undertaken and continues to undertake in an effort to protect our water resources. These initiatives include the funding for groundwater studies, the funding and implementation of best management practices through the healthy futures program, the Nutrient Management Act, the expansion of

surface and groundwater quality monitoring programs, the development of Bills 175 and 195 and the appointment of the source protection planning advisory committee. These initiatives provide clear evidence of the government's stated commitment to implement the recommendations of the O'Connor report and, more importantly, its commitment to provide and protect clean water to the residents of Ontario.

It is very clear that through Bill 175, the province is committed to full cost pricing for the extraction, treatment and distribution of water. In our view, it is extremely important to include the cost of source protection through watershed planning and management activities as an eligible component of full cost accounting for water and waste water services. Delton Becker, our chairman, has just arrived.

As noted in the O'Connor report, source protection is the first barrier in a multi-barrier approach to protecting drinking water. The supply and treatment of drinking water should not be undertaken in isolation of the protection of the sources of that water. The protection of the source of drinking water, whether from our streams, rivers or lakes or from our groundwater aquifers, in our opinion, is an essential part of the infrastructure of the supply of water and, as such, should be included in the full cost accounting process. It just makes a great deal of sense that if the source water is clean and pure, the cost of treating it for human consumption will be much less than if the source water is contaminated.

Bill 175 clearly puts the cost of the use of water on the shoulders of the user. It is also understood that a variety of funding alternatives which would provide stable funding for the watershed-based source protection component of the safe water delivery system must be assessed. Conservation Ontario, our umbrella organization, is committed to assisting the government in exploring other user fee mechanisms to address the provision of stable funding, equity issues as they relate to urban and rural communities and their available assessment bases, as well as how all users of water pay for its use.

In urban areas, the municipal water bill as a vehicle for the collection of user fees is well documented. In fact, some conservation authorities in the province already receive funding through this process to deliver a range of water management activities that assist in the improvement of water quality and quantity. There was also the recognition of the fact that a significant part of the population of Ontario is not serviced by municipal communal supplies. Hence, the water bill may not be the most effective mechanism in those parts of the province.

For example, in the Saugeen River watershed, of a total population of approximately 81,000, 52.2% is in an urban setting and 47.8% is in a rural setting. In the Grey Sauble watershed, with a total population of approximately 63,000, the urban numbers represent 50.9% of the population and 49.1% for the rural population. Almost one half of the population of these two large watersheds are not accounted for in Bill 175, without the inclusion of

source protection planning into the full cost accounting process. Bill 175, in its present form, is geared to protect and pay for the water supply and treatment systems of the municipally serviced areas. However, the rural population is left to fend for itself.

It is suggested that there is an obligation on the part of the government to also protect the water resources used by the rural population of Ontario. It is our opinion that source protection planning and implementation will go a long way in protecting the lives of our rural and urban residents. Unlike in the urban setting, multi-barrier treatment systems typically do not exist in rural Ontario. The inclusion of source protection planning will provide one vital barrier for the protection of groundwater, the primary source of water in rural Ontario.

It is also understood that some mechanism for the equitable contribution to the provision of safe drinking water by rural Ontario has to be considered. In the big picture, this too is an integral part of the full cost accounting principles for the provision of safe drinking water in Ontario. It is generally accepted that the costs of preventing contamination are much less than the costs associated with remedial measures or end-of-pipe solutions. The recognition and inclusion of source protection into the infrastructure framework will acknowledge the principles and benefits of watershed management and, just as importantly, the critical role it will play over the long term.

One of the basic tenets of watershed management is the fact that everything is connected; what you do upstream will have a direct effect downstream. It would seem logical that this simple management principle should be included in the cost of providing safe drinking water. Including the provision of source protection planning through watershed management as an infrastructure cost will recognize it as an actual component of full cost accounting. It will acknowledge the intrinsic value of water in the environment. Mechanisms to provide stable, permanent funding to allow source protection to occur must be explored more thoroughly, possibly through the work of the source protection advisory committee. Clean, healthy water for the people of Ontario also means healthy environments for forests, fish, wildlife, recreation, industry and so on. In the long term, the benefits will be far greater than having just clean drinking water.

In conclusion, it is our recommendation that Bill 175 be amended to include the cost of source protection through watershed planning and management activities as an eligible component of full cost accounting for water and waste water services.

Thank you again for allowing us the opportunity to present our views at this session.

The Chair: Thank you very much. This time we've got just under five minutes, so I'll split the time between the government and the official opposition.

1340

Mr Murdoch: Thanks for coming to present. Both of you are doing a study right now with counties of Grey and Bruce, right? Yeah, so after that's done and after we

get more data from some of the other people who are doing the same thing, then we have to put a source protection water bill together. I think that's when your recommendation probably would be used, more than with this bill, because you are looking at sources right now with your study and what wells we have and things like that out through our watershed. I think that's what I understand is the intention of what we'll do when that bill's introduced. Then we can look at that.

I don't know how we're going to look at costs, other than maybe somewhere the conservation authorities will take a leading role in that, I think.

Mr Coffey: I think you're quite correct. Certainly, if there is separate legislation dealing with source protection planning, that's one thing. Under Bill 175 there's an opportunity here, once it's confirmed that source protection planning is actually part of the infrastructure of providing safe drinking water, to enshrine that and to come up with a mechanism for money to allow source protection to occur. It may also work as part of that other piece of legislation when that may occur, but here's a great opportunity to combine all of that.

Mr Murdoch: But we don't have all the information yet. That's the problem. We can probably make the mechanism start but we wouldn't know the cost and things like that.

I guess the other thing is, we can always amend Bill 175 at a later date, also, and add this into it. It means another bill, because when you amend the bill, that's another amendment in there.

I see what you're saying, but I just don't think we maybe have enough of the information. When the source water protection bill comes, I think in that bill we can allot for costs there. I think that's where we'll have to do that. I just don't know whether we can do it in 175 when we don't have all the information.

Mr Bradley: I'm interested in the fact that you differentiated between the larger urban municipalities, or urban municipalities and rural municipalities, and the need to find, perhaps, a different mechanism other than the water bill. At the rural area you mentioned, for instance, that it's much more difficult and onerous on rural areas to meet those obligations. In a large municipality you simply charge whatever it costs for the water and the protections of the raw water supply, and that would be it. Do you have any special mechanism that you would suggest for the rural areas?

Mr Coffey: We've looked at it—at least Jim and I, and I know our chairman and vice-chairman—we've looked at a number of alternatives, but we haven't come up with one that's not tremendously controversial even in our own minds. Quite conceivably one thought might be just a flat rate. If you look at our Conservation Ontario paper that was done as part of the O'Connor report, it was estimated at that time that it cost approximately five cents per household per day for water management outside of treatment and supply. I believe that works out to about \$18.50 a year. It was estimated at that time that it may have to go an additional four cents to meet all of

what we had estimated at that time to be our costs—quite conceivably a bill of \$36.50 a year.

One option might be to put it on the taxes and have the municipality collect it and send it off to the appropriate parties. It's one possible option. I'm sure there must be others that we haven't investigated, but I think the important thing is that under Bill 175 as it presently sits, rural Ontario is left out of the equation. There will be funds collected for the construction and maintenance and operation of existing and proposed municipal systems. Presumably, then, the residents using those systems will be protected, but as the numbers show in our watersheds, clearly 50% will not be protected, so we have to come up with a mechanism for that.

Mr Bradley: The Chair's head is wagging sideways like this, which means I'm out of time, and he's always fair.

The Chair: Thank you, folks, for coming before us here this afternoon. We appreciate your comments.

GREY COUNTY FEDERATION OF AGRICULTURE

The Chair: Members of the committee, the 1:45 group indicated they will not be attending, so we'll move to the 2 o'clock group, who are already in attendance: the Grey County Federation of Agriculture. Good afternoon, gentlemen. Welcome to the committee. The floor is yours.

Mr Karl Chittka: Good afternoon, Mr Chairman and members of the committee. We're here on behalf of the Grey County Federation of Agriculture. We'd like to address this committee on Bill 195, the Safe Drinking Water Act. My name is Karl Chittka. I'm the OFA regional director for Grey county, south region. With me is Mr Paul De Jong. He's the president of the Grey County Federation of Agriculture.

The Grey County Federation of Agriculture, on behalf of our 1,700 members, is honoured and pleased to have the opportunity to appear before you to address this consultation hearing on one of the fundamentals of agriculture and the most important necessity for the health and well-being of our farm families and for all the citizens in Ontario; as a matter of fact, I would say for all of Canada.

Water is the source of all life on this planet. Safe drinking water is the foundation for a healthy population. We all know what can happen when the drinking water is not safe from the recent tragedy in this very town of Walkerton.

With the introduction of Bill 195, the Safe Drinking Water Act, and the consultation hearings on this act, our position is that the government is committed to the people of this province and concerned that they enjoy a healthy and productive life. For this we commend our ministers.

The Grey County Federation of Agriculture is and has been active for many years in promoting a number of programs and initiatives to protect our environment and

the sources of our water supply. Farmers know that without sufficient clean water, their livelihood will be jeopardized.

The farmers of Grey county have one of the highest participation rates in the environmental farm plan program in Ontario. More than 1,200 plans have been completed county-wide. The EFP program is a self-analysis of the farm practices and environmental practices on the homestead. In the program, a lot of time is devoted to identifying and protecting the clean water sources for livestock and the family.

The Grey County Federation of Agriculture is presently leading, by way of the healthy futures program, in the upgrading and decommissioning of private wells. Participation by farmers is very high, and the program is also utilized by non-farm rural residents. The program is just another step to ensure safe drinking water.

1350

Farmers are well aware that careless nutrient management practices can have a devastating effect on our surface and groundwater resources. In view of this, the Grey County Federation of Agriculture is very supportive of the Nutrient Management Act, Bill 81, and has participated and will continue to participate in all phases of the regulation hearings. We are presently planning workshops on nutrient management for our farmers to ensure that the act is workable and that it's understood.

We believe Bill 195 and Bill 81 go hand in hand to proactively promote safe drinking water on the farm. Bill 195 deals with municipal water supply. It is important that the bill have provisions for treatment, maintaining of the system, proper and accurate monitoring in place and an efficient response, when things go wrong, to rectify the problem to avoid what happened in Walkerton.

Our concern with Bill 195 is that in its present form it is not suitable and practical for the majority of our members who draw their water from a single private well. The bill has a section on municipal water systems and a section on non-municipal water systems. We understand that the intent of the non-municipal systems applies to schools, hospitals, restaurants, community halls and so on, or wherever the general public may draw drinking water.

We hope the intent is not to regulate private wells serving a family. Consequently, the statement in the act that says "to recognize that the people of Ontario are entitled to expect their drinking water to be safe" would have to be modified, because this statement would apply to every water tap in Ontario.

We believe a comprehensive education program for all private well owners and an incentive to test their water regularly would be a better approach to ensure safe drinking water than a heavy-handed regulatory approach. Farm well systems are much less complex than municipal systems and easier to manage to supply safe drinking water for the family.

The second concern the Grey County Federation of Agriculture has is that the cost of upgrading municipal water systems is very expensive, and municipalities may

levy these costs on all ratepayers in the municipality whether they're on the system or not. That would be grossly unfair to private water system owners. We have heard from municipal water users that they feel private well owners get their water for free. Let me assure you that nothing could be further from the truth. We would like assurance that the cost of upgrading, maintaining and operating municipal water systems is paid for by the users of the system and not through a general levy.

We support the provincial government's commitment to safe drinking water. However, we do not want to have private wells included in regulations intended to protect municipal water systems. Education and incentives always beat regulations, hands down.

This report is submitted on behalf of the Grey County Federation of Agriculture by Karl Chittka and Paul De Jong.

The Chair: Thank you very much. You've left us two minutes per caucus, and this time we'll start with Ms Churley.

Ms Churley: Thank you for your presentation. You're talking about an issue that's come up before; that is, the difference between private wells and municipal water systems. Of course we would all agree, as you said, that you've got to try to guarantee safe drinking water for everybody, but essentially you're saying one size doesn't fit all. I'm just trying to figure out how you would propose the act be changed to accommodate the concerns you are raising, so that you are still doing things to try to keep the water safe. Are you saying there would be different standards applied, or none at all?

Mr Chittka: I think the committee or the powers that be have to recognize that private well systems are a lot different from municipal systems. In the private well system the onus does lie with the owner of that system, which in most cases in our area is the farm community. If we can educate and encourage farmers and give them an incentive to have their water tested more regularly, take the necessary action rather than having that regulated, it would be helpful.

Ms Churley: I see.

The Chair: You've gone over.

Ms Churley: One real quick one?

The Chair: Extremely quick.

Ms Churley: As well, you look at bringing back programs like Clean Up Rural Beaches, the CURB program, and working with farmers in terms of source protection and things like that—I hear what you're saying.

Mr Chittka: We've been doing this for quite some time on the farm. The only thing is that we never publicize what a good job we're doing.

Mr Miller: It's my understanding that this bill does apply to six or more wells, but it doesn't apply to individual private wells as you're recommending. I think you make some good points, though. You're more or less saying that if you have your own water system and your own septic system, and you're on a farm and already paying the full cost for that, you don't want to be levied

to pay for the municipalities to upgrade their systems to get the full cost recovery on their systems. Is that correct?

Mr Chittka: That is correct. I think this is one time where we encourage user fees. Whoever uses it should be paying for it. We hear, as I mentioned in my brief, that some people feel that farmers or people who have their own wells get their water for free. If you knew the cost of putting in a well and putting in a system and maintaining that system, then water isn't free by a long shot.

Mr Miller: So you're already paying the full cost of it. You're also already doing quite a bit of source protection, and more is on the way with the environmental farm plan and with nutrient management, and as well the healthy futures program and the work you're doing on wells. So you are doing source protection as well.

Mr Chittka: In Grey County I can say, just speaking from my experience over many years in the federation, the farm community has been very proactive in protecting their water sources. Bill 81 comes along now and really is only doing what most farmers are doing already. It's unfortunate that it has to be regulated or passed into law. Bill 81, in my opinion, is for the benefit of the public rather than for the benefit of farmers, and farmers are expected to carry the brunt or the burden of it too.

We have been very proactive and will continue to do that. As a matter of fact, with my president here, we are in the planning stages of having educational programs for people who want to participate in Grey County.

1400

Mr Peters: I don't know whether you heard the previous presentation, where it talked about the proportion of the population living in the rural parts of the Saugeen and Grey Sauble watersheds who aren't paying into a water system, much like you're describing here. You've made a point as well in your presentation that you're concerned about paying a levy. I guess that's what the conservation authorities are talking about. Somebody's got to pay.

Who do you propose would pay for your comprehensive education program and incentives to test wells regularly? Would it be your contention that, instead of paying some sort of levy, that would be your contribution toward ensuring that the water coming out of your tap is safe? How would you propose to pay for this program you're proposing?

Mr Chittka: I would think the educational part of the program is something the OFA would take on at their expense and would encourage our farmers to participate in these workshops, because we do have farmers who expect to get some educational benefits out of their membership fees. So that part I think is easy. As far as the testing of wells is concerned, I would think that people should not have to pay for getting their wells tested. They should be able, on a regular basis, to take it to the health department to get it tested with no charge.

The Chair: Thank you both for coming before us here this afternoon. We appreciate your comments.

ASSOCIATION OF MUNICIPAL MANAGERS, CLERKS AND TREASURERS OF ONTARIO

The Chair: Our next presentation will be from the Association of Municipal Managers, Clerks and Treasurers of Ontario. Good afternoon, and welcome to the committee.

Mr Glen Henry: Good afternoon, Mr Chairman and members of the committee. My name is Glen Henry. I am the president of the Association of Municipal Managers, Clerks and Treasurers of Ontario. Here with me today is Andy Koopmans, the executive director of the AMCTO.

The AMCTO is a professional association dedicated to serving the needs of municipal employees across Ontario. Created in 1938, the AMCTO has grown to become the largest professional association for the municipal sector in Ontario and currently has over 2,000 active members.

Through its members and the resources they provide, the association works to foster administrative excellence in local government and to enhance the professional life of its members. The AMCTO is committed to raising the standards of professionalism in the municipal public service. It does this by offering extensive training and professional development programs. As well, through communication of information and ideas, the association represents its members and their interests as professionals to all levels of government.

On behalf of the AMCTO, I thank you and appreciate the opportunity you have allowed me to present the view of the association regarding Bill 175, The Sustainable Water and Sewage Systems Act.

Let me start by saying that the AMCTO in principle, fully supports the intent and objectives of this bill. We feel that in light of the tragedy here in Walkerton and the subsequent recommendations of Justice Dennis O'Connor's report, this bill was fully anticipated and long overdue.

We believe that clean, safe drinking water in our province is something that governments on all levels should make a high priority. Federal, provincial and municipal governments must work together to ensure that in every part of this province our residents should not have to worry about where their water is coming from and whether it is safe for drinking. Bill 175 is an important step in delivering this objective.

Bill 175 is an important step toward ensuring that Ontario's water and sewage systems are financially sustainable, while at the same time ensuring that our water is safe for public consumption, and the water and sewage systems are environmentally friendly.

While we do support this bill, the association has found it difficult to make any informed or constructive response due in large measure to the lack of detail contained in the bill. The association fully recognizes that many of the questions and concerns we have will be addressed through regulations. Until that time, muni-

cipalities cannot assess the requirements of the legislation or take any action to prepare for its implementation.

Having said that, on behalf of the AMCTO I would like to make a few general comments about the bill. In addition to my comments, I have circulated a copy of our written submission to the Minister of the Environment, which includes some additional specific comments and recommended amendments that deal with particular provisions of this bill.

I would like to limit my comments today to three key areas of concern to the membership of the AMCTO: the first being the extent that this bill relies on regulatory authority; second, the financial and human resource impacts that Bill 175 will cause; and third, I will conclude with examples in this bill that illustrate its overlap with other pieces of legislation already in existence.

Although the AMCTO recognizes the enhanced degree of flexibility that arises from regulatory direction, rather than legislative direction, we are concerned by the unprecedented degree to which this bill relies on regulatory powers.

As I have already mentioned, the reliance on such regulations makes it extremely difficult for municipalities to make any plans or to evaluate what is expected of them. For example, in subsection 9(4) of the bill, which speaks to sources of revenue to be included in the cost recovery plan, it states that "regulations may specify those sources of revenue that a regulated entity is, or is not, permitted to include in the plan...." This subsection goes on to say that the regulations may impose conditions or restrictions on a municipality's water plan with respect to the different sources of revenue.

After reviewing this particular subsection of Bill 175, municipalities are no further ahead in understanding the province's expectations than they were prior to the introduction of the bill. This is particularly problematic for those municipalities that already have water and waste water plans in place or are currently working on such plans, since they are unable to determine if their current plans comply with the requirements of the bill.

The AMCTO would therefore like assurances from the ministry that it will consult with municipal practitioners in the preparation of the required regulations, in order to understand and recognize the efforts that have been undertaken by municipalities that have already prepared water and waste water plans.

The second point I would like to address concerns the financial and human resource commitments Bill 175 places on municipalities. There is no question that this bill will require a significant commitment of financial and human resources by municipalities for the preparation of reports and cost recovery plans. The AMCTO fully appreciates this and does not object since the purpose of the investment is for the safety and protection of our residents.

The bill, however, does not explain, nor does it provide any detail on, the extent of what the province will require to ensure compliance. While this is of concern to all municipalities, it will place a particularly large burden

on the smaller municipalities, which will likely require the use of outside consulting expertise.

As well, the bill provides that the province may prepare reports and plans on behalf of a municipality, with the municipality reimbursing the province for the costs incurred. In subsection 6(1) of Bill 175, it provides that, "The minister may prepare a report on behalf of a ... entity" if he or she "considers it appropriate." It goes on to say in subsection 6(2) that the municipality shall reimburse the province for the costs incurred by the minister.

Given that municipalities will be facing a large, albeit necessary, financial and human commitment, the AMCTO would like to request that Bill 175 be amended to provide further clarification with respect to circumstances wherein the minister may consider it appropriate to prepare a report or plan on behalf of a regulated entity. In this same vein, the association would also like to recommend that prior to the minister preparing any report on behalf of the municipality, it consult with the affected entity to detail the magnitude of the costs that may be incurred.

Lastly, I would like to touch on one other concern relating to Bill 175, and that concerns the potential overlap this bill has with other pieces of legislation. The AMCTO has found that in many sections of this bill, there are requirements for municipalities or other entities to comply with provisions that are also found in other legislation, in particular the new Municipal Act under the jurisdiction of the Ministry of Municipal Affairs and Housing. There are other provisions as well that likely overlap with legislation from other ministries such as the Ministry of Natural Resources and the Ministry of Finance.

To illustrate my point, again in subsections 9(4) and 9(5) of Bill 175, regarding sources of revenue and the associated restrictions, it states that, "The regulations may specify those sources of revenue that a ... entity is, or is not, permitted to include in the plan." Also, "The regulations may specify the maximum amount by which a ... entity may increase the charges for the provision of the water services for any customer or class of customer over any period of time."

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However, under the requirements of Ontario regulation 244/02 of the Municipal Act, municipalities must already follow a prescribed process when calculating water and waste water fees, which are limited to cost recovery. In addition, municipalities are already required to provide detailed explanations of how the fees were derived.

Because of the potential of overlap and duplication, the AMCTO would like to recommend that the Ministry of the Environment ensure that no section of this bill is in conflict with any other existing piece of legislation from other ministries. As well, we would like to recommend that any prescribed reporting requirements under this bill be synchronized with the reporting requirements imposed by other ministries to avoid unnecessary duplication.

To briefly summarize my comments today, the AMCTO would like assurances that the ministry will consult with municipalities, and particularly municipal practitioners, as it prepares the regulations to Bill 175. We would also like to recommend that the ministry clarify the grounds that would require the minister to prepare a report or plan on the municipality's behalf and fully explain the costs that would be incurred to the municipality. Finally, the AMCTO would like assurances that the Ministry of the Environment will ensure no section of Bill 175 overlaps or duplicates the provisions made in other pieces of legislation.

In closing, I thank the committee for the opportunity for the AMCTO to present its views on Bill 175. We will now be more than happy to take any questions from the committee, and I would point out that we have a copy of the presentation here today for your clerk.

The Chair: There are just under three minutes in rotation this time, generously conceded by Mr Murdoch; I'll give it to the official opposition.

Mr Bradley: I'm interested in the concern that I guess all opposition people always have, no matter what government legislation you're dealing with, and that's the amount of legislation that is vague. Quite obviously, you would be looking for an opportunity to comment on the regulations. I would hope there would be a formal opportunity for you to comment on the regulations associated with this bill, since it is quite vague in terms of its legislative provisions now. In addition to that—this is an excellent brief, by the way, with a lot of information we should have—it will be virtually impossible to reflect this in any amendments that we could present or that the government could present to the committee tomorrow, since all amendments have to be in by noon tomorrow. Will you be seeking an opportunity to have formal input into the regulatory framework?

Mr Henry: Absolutely. The association always stands ready to have input and to bring our administrative or practitioner perspective to the legislation and its regulations as they are being developed. We have had discussions in the past with Minister Hodgson about our interest in having the Ministry of Municipal Affairs and Housing perhaps act as a clearing house, if you will, for various pieces of legislation and regulations that are working through the system, because sometimes if there is overlap, we as practitioners will see that, and working with the ministry, we can perhaps alleviate that and make the processes the government decides will be taking place to be done as efficiently as possible. So we would be prepared to meet with whomever we can.

Mr Bradley: The other comment you make is about the expansion of municipalities, new development that is taking place. Are you recommending that all municipalities be compelled to have a development charge put in place, rather than trying to finance any of these additional costs entirely out of what you would call the user fee, that is, the rate applied to paying for water?

Mr Henry: I would defer to Mr Koopmans for that question.

Mr Andy Koopmans: Recognizing that there is already development charges legislation in place, our concern was more along the lines of providing the opportunity for those municipalities that perhaps choose not to use the development charges legislation to still have an opportunity to reflect the full costs of providing a water and sewer system. We were concerned with the wording in the legislation as it currently sits; it seemed to be missing a fairly substantial component related to expansion. If municipalities were truly going to be covering the full cost, then all costs should be included.

The Chair: Thank you, gentlemen, for appearing before us here this afternoon. We appreciate your comments.

SARNIA HEAVY CONSTRUCTION ASSOCIATION

The Chair: Our next presentation will be from the Sarnia Heavy Construction Association. Good afternoon, and welcome to the committee.

Mr Doug Woods: Good afternoon, Mr Chairman and members of the committee. I'm Doug Woods, president of Cope Construction, a sewer, water main and road building company based in Sarnia, Ontario. I'm currently a director of both the Ontario Hot Mix Producers Association and the Ontario Road Builders Association, and I'm a past president of the Ontario Sewer and Watermain Construction Association. I am also an active member of the Sarnia Heavy Construction Association and have been for the last 20 years.

Travelling with me today, or maybe I should say travelling with other people today, several other members of the Sarnia Heavy Construction Association have come to Walkerton. In the audience is Mr Henry Heyink, president of Henry Heyink Construction and the current Sarnia representative on the Ontario Sewer and Watermain Construction Association; and Mr Ted Cooper, who will speak to you later today and who is president of Ontario Water Products, a supplier of pipe materials, and the immediate past president of the Ontario Sewer and Watermain Construction Association. Joining me at the table is Mr Mark VanBree, who is president of Birnam Excavating and the current president of the Sarnia Heavy Construction Association.

We are enthused to be able to make our views about Bill 175, the Sustainable Water and Sewage Systems Act, known to this committee. Collectively, the four of us represent over 110 years of experience—and Mark is the youngest one here—supplying, installing and repairing sewer collection and water main distribution systems. So we've had a good opportunity to witness the aging and deterioration of our regional water mains as we expand, replace and tie into these systems.

When I moved to Sarnia from the London area 25 years ago, reconstructing and maintaining the city's road, sewer and water main infrastructure represented 40% to 60% of Cope Construction's annual sales. Last year, less than 2% of our sales were infrastructure rehabilitation for

the city of Sarnia. It would seem to us that our local municipalities have not been diligent in ensuring that our water and sewer systems are being maintained to an acceptable standard.

We recently witnessed a project in Sarnia completed two years ago by another member of the Sarnia Heavy Construction Association, where an 8-inch concrete sanitary sewer that was not scheduled for replacement was discovered to be in complete failure mode while the water main adjacent to it was being replaced. It was discovered that as a collector sewer, it had deteriorated at the obvert, and completely disintegrated when it was disturbed during the water main replacement. We can't help but think that this scenario exists throughout the city and throughout any municipality with a system over 50 years old. If this sanitary sewer had ever been surcharged coincidentally with a water main break, cross-contamination would have been inevitable.

I've told my son and daughter, both students at the University of Guelph, about my concerns with respect to maintaining Sarnia's underground investment, something most kids of today don't even know exists. I guess my kids were fortunate, or unfortunate, in that I would drag them to job sites every weekend and point out what we were doing. So I think they actually have a working knowledge of how sewers and water mains work. They're probably among the few university kids who do.

They can relate to the fact that without a long-term plan, it would be difficult for construction companies to provide a stabilized level of skill and wherewithal to complete the upgrades in an efficient and economical method when asked to tender on such projects. Both of my kids know most of our employees on a by-name basis, and they realize there's a skill set and a knowledge base there that has taken years to achieve. If construction companies are expected to train their employees, we'd have a hard time having a sense of security that we can proceed to do that if the purchasers of construction don't have a plan for yearly maintenance.

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My daughter, who has always loved to challenge her father, asked me what my solution to this problem would be. Of course, the answer is simple: it's full cost pricing. Full cost pricing would ensure that the operator of a water and sewage system had an adequate revenue stream to repair, replace and maintain a system at peak operating efficiency. In basic terms, let the consumer of the product pay the true cost of installation, operation and future replacement.

Jessica's reaction as a student in the social sciences was that the underprivileged and those on limited incomes would be hindered by full cost pricing. Aha, I got her on that one. It would be just the opposite, because full cost pricing legislation should be tied in with metering. That way, owners of swimming pools, like our neighbours to the north, and people like your mothers with green front lawns will pay for that privilege by virtue of their consumption. The cost of water for daily drinking, washing and sanitary needs in Ontario will continue to be the cheapest anywhere in the world.

Bill 175 needs to make the priority for all municipalities to carry out assessments of the condition of their water system and sanitary sewers, the expected lifetime of those assets and the anticipated maintenance and replacement costs over the long term. The local municipality can then decide how to pay for these costs and how best to manage and operate their system. I found chapter 10 of part two of the Walkerton Inquiry report quite comprehensive with respect to the responsibility municipalities have to provide clean water and safe sewage disposal.

The Chatham-Kent Public Utilities Commission is an excellent example of how 23 municipalities and 13 public utilities were integrated into a single utility. This utility now has the strength and revenue to have in place a very knowledgeable and experienced management team. They have completed a master plan, standardized service levels and adopted a rate structure that includes a life cycle reserve that includes complete replacement cost of the existing system.

As a result of being given the opportunity to come here, I recently spent some time surfing the Web searching "clean water." Ontario and its municipalities are not alone in coming to terms with how best to demand that the operators of public water systems be accountable. Several other provinces, Australia, England and Germany are also working on legislation that will require full cost pricing, metering and quality monitoring.

As I continued research on the Web, it became apparent that all citizens want to make sure that whatever operating option a local municipality selects, it needs to make sure that all agreements, budgets and spending are transparent and understood by the elected board or council. This board or council needs to have a blend of business, financial and entrepreneurial skills.

The Ministry of the Environment or OCWA could duplicate some ideas I noticed in the US. The National Environmental Services Centre for Small Communities provides a course called Managing Drinking Water Systems: A Short Course for Local Officials.

Bill 175 should not only legislate minimum standards for the operation of the system but should require that the board or council that the operators report to has a working understanding of how the system works. It's not unlike what I mentioned about my kids; there are not that many children or even university students who know how a water and sewage system works or operates. And I'm afraid to say that I think there are probably some elected officials who don't know either.

The New York Rural Water Association provides circuit riders, who provide hands-on assistance in regard to leak detection, water quality and system maintenance.

I'm responsible to Cope's shareholders to protect their investment, and Bill 175 can provide that protection to all the citizens of Ontario for the assets they have under the ground.

My friends occasionally accuse my interest in improvement to our sewer and water main systems as being

self-serving. If they only realized how their health and happiness could be impacted if it wasn't of interest to me.

Bill 175 needs to set dates to implement full cost pricing. From a consumer's perspective, it's not going to be a great burden. Most municipalities will only have to increase their monthly bills by \$2 to \$6.

Several years ago I had occasion to meet an elected official from a small central Ontario municipality. He was so excited describing how they had just completed a \$7-million improvement to a system that served less than 2,000 households. Well, you can use some basic math to understand that it may be impossible for those 2,000 households to pay the full cost.

In the past, various municipal assistance programs provided by both senior levels of government gave smaller municipalities up to 90% of their capital costs. In these communities, full cost pricing may have to be phased in over a five-year to 10-year period and transition financing will have to be provided by senior levels of government.

I feel my time is slipping by. I haven't even mentioned the improved technology with respect to the water mains that we, as construction companies, can put in the roads now. Technology has advanced so much that the reconstructed water mains will last two to three times longer than the original installations. So I find that this is a great opportunity you have to make sure our families always have safe water.

The Chair: There is slightly under five minutes, so I'll split the time this time between the NDP and the government.

Ms Churley: Thank you very much for your presentation. This gives me the opportunity to say that I have in fact suited up and gone down in the sewer system. I think perhaps I'm the only member of the committee who has done that. I've invited my colleagues on many occasions to let me take them down into the sewers of the city. They haven't let me do that yet. However, I understand what you mean when you say that most people can't even imagine what exists underground. Politicians have a tendency, as has been pointed out on other occasions, of wanting to be above ground, cutting ribbons—something very visible. We've created quite an infrastructure deficit for ourselves.

I want to touch on the full cost recovery aspect because I too have my Justice O'Connor books. I carry them everywhere with me. I note a couple of things he said. He talked, for instance, in part two about the government having, as he called it, restructured—I call it downloading—a lot of social services costs to the municipalities, which is making it even harder for them to meet those kinds of requirements. The government needs to review all that kind of restructuring, downloading to the municipalities. I just wanted to know how you would see the full cost recovery working vis-à-vis the difficulties municipalities are having now in meeting their requirements.

Mr Woods: My understanding is that for municipalities of a certain size it is not going to be an issue. They probably already are at a level of full cost.

Ms Churley: That's true.

Mr Woods: I think maybe one of the problems we've experienced in Sarnia is that it is one of the largest small communities, if that makes sense

Ms Churley: Yes.

Mr Woods: They probably were receiving for their capital infrastructure 30- to 40-cent dollars from some other government. They may even have been subsidized somewhere in the 40% to 60% range. Once the government stopped doing that, instead of the city of Sarnia trying to find that 40 to 60 cents, they just stopped spending the other 30 to 40 and actually reduced the tax bill accordingly. I think they need a wake-up call. I think they've got the capacity to generate the income. They just haven't been told by anybody that they have to.

Mr Miller: First of all you mentioned in here, and I've seen this figure in other submissions, that the cost to bring full cost pricing for consumers would not be a great burden. You're suggesting it would be \$2 to \$6 a month. Is that each year that it's increasing that amount or is that a one-time shot?

Mr Woods: That's the nice thing about when it's being metered. It will be entirely up to the consumer to make that choice and decision. I think, based in Sarnia, it probably is going to have to be more to get back up to where we are. Currently, I think we spend less than \$400 in my own household for water and sewage, which I think is one of the cheapest in the province.

Mr Miller: Another presenter suggested that in their municipality it would be around \$900; I think that was the figure they were looking at as being full cost. This \$2 to \$6 a month must be over the five to eight years that full cost recovery will be—

Mr Woods: That's based on what a household would need for the basic services, for drinking water, cleaning and sanitary needs, not for filling their swimming pools or watering their front lawns. It would be what a normal family's consumption would be for their basic needs.

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Mr Miller: OK. I gather from your presentation that you don't necessarily feel that senior levels of government should be jumping in and coming up with all kinds of programs for all municipalities, as I think I'm hearing the opposition parties suggesting we should be doing, basically. You're saying that where there are small municipalities, where they can't afford it, there's a role for senior levels of government.

Mr Woods: It's very difficult, because here's Chatham-Kent, which is probably approximately the same size as Sarnia, that already has its act together, so it's not very fair to be jumping in there to provide funding to Sarnia when Chatham-Kent doesn't need it or already has its plan in place. What the governments maybe need to do is jump in and say, "This is what you need as a minimum standard for your systems, for which you need to be putting aside a certain amount of money. If you do that, we will give you some help, but if you don't do it, you're not getting any help."

The Chair: Thank you very much. We appreciate your coming before the committee this afternoon.

ONTARIO WATER PRODUCTS

The Chair: Our next presentation will be from Ontario Water Products. Welcome to the committee. You have 15 minutes for your presentation, for you to divide as you see fit between your comments or leaving time for questions and answers.

Mr Ted Cooper: Good afternoon, Mr Chairman and members of the committee. My name is Ted Cooper. I'm the president of Ontario Water Products. Our company represents over 100 dedicated men and women. We are pleased to have this opportunity to present our views on Bill 175, the Sustainable Water and Sewage Systems Act. Ontario Water Products is a distributor. We supply materials used in the water and waste water industry. Our sister companies, Canadian Water Services and A1 Hydrant Services, provide a variety of services for the operation and maintenance of waterworks utilities. We have 10 locations throughout Ontario, and each is staffed by men and women with many years of experience in the industry. I have been in the industry for 30 years. Ontario has always been my home base, but I have worked throughout Canada and the United States.

With me is Mr Henry Heyink, of Henry Heyink Construction. Henry's offices are in Chatham-Kent, and they have worked in the water and sewer construction industry for 25 years. Henry's firm employs 50 men and women.

We are very supportive of Bill 175. This industry has suffered from inadequate funding and an "out of sight, out of mind" attitude for far too long. Bill 175 will do a lot to correct this neglect. This legislation is necessary to ensure that our water and sewer systems are financially and environmentally sustainable. We are faced with a water and sewer infrastructure deficit, and we must address it.

I have with me a sample of what some of the pipe in Ontario looks like. This is a piece of four-inch cast iron pipe. It was taken out of a system about a year and a half ago from a small southwestern Ontario community. We have miles of this pipe in Ontario. In fact, any community that has a system probably not much more than 25 years old would most likely have this type of pipe in their system and it would most likely look quite a lot like this. This pipe today would be deemed to be undersized; by today's standards, we require at least a six-inch pipe to supply water to fire hydrants for fire protection etc. And once this tuberculation, this buildup, inside the pipe takes place, you can see that the diameter is further reduced. I'm not sure how much good this line would be in an emergency situation or firefighting situation.

Mr Bradley: Sorry to interject, but what causes that to happen?

Mr Cooper: I'm not sure I know all the chemical reasons, but this buildup of material is called tuberculation. It is made up, I think, of calcium, iron and ferrous

metals found in the water. In the old days, not that many days ago, these pipes were made of cast iron, as I say, and they weren't lined in any way, so the material would affix itself. Actually, I was told by a gentleman recently that this material has a life of its own. It grows; it's not inert and just builds on itself. He said it actually has a life in it when they find it in the early pipes. It didn't take, years ago, very long for this to occur, from what I've been told. Again, I'm not a chemist so I don't know all the ins and outs of it. I'll pass it around.

It's pipe like this that must be replaced now. This will take funding, and with Bill 175 and some transitional funding help from the provincial and federal governments, we will get the job done.

What I find most encouraging is that what we do now will last a long, long time, much longer than it did in the past. This industry, like many others, has gone through great technological change in the past 20 years. We now have new materials like PVC and polyethylene plastic pipes. We have corrosion-resistant coatings like epoxies and nylons. We use rubber to seal joints instead of lead, as was once the case. Iron pipes are lined with cement today, unlike the pipe that I brought as a sample, and cathodic protection is used on most iron parts in the system, which significantly reduces the amount of corrosion due to electrolysis. We now have industry standards, like CSA, which will help to ensure that the products installed are manufactured to our requirements. All this and many other improvements will ensure that the work we do today on our infrastructure will be here for many, many generations to come.

We support Bill 175. We are particularly pleased that there is a section that requires municipalities to maintain dedicated reserve accounts. We believe that this is a very critical part of this legislation. In the past, revenues from water and sewer were not always dedicated; often, they would end up in general revenues. With the "out of sight, out of mind" attitude that I spoke of, very little would flow back into the underground infrastructure, if you'll pardon the pun. There is no doubt that this is a significant contributor to our current situation. Dedicated reserve accounts will ensure that these revenues remain in the utility, as it should be.

We believe that the universal use of water meters should be a part of this legislation. We believe in a user-pay system and believe meters are an integral part of user-pay. Our experience is that by going to metering, utilities will enjoy a significant reduction in the consumption of water, thus reducing costs and adding many years to existing treatment facilities. The reduction does not occur because consumers significantly change their personal use of water, but rather it is from an appreciation of their use and a change in the amount wasted. Have you ever noticed how communities without meters seem to have the greenest lawns?

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The greatest savings, however, will come from lost water. With a metered system, the utility knows how much water was treated at the source and how much

actually got to the consumer. The difference is lost water. Leaks through breaks in old pipes, gaskets that are leaking etc are the types of causes of lost water. We have seen as much as 20% lost water in systems in Ontario. Once determined, the leaks can almost always be located and repaired.

Recently, we've read articles in the press claiming that this bill will somehow lead to privatizing the water industry in Ontario. I fail to see how this connection can be made. What we do believe is that the utility and all its assets should continue to be publicly owned. Ownership should not be negotiated. There is, however, a great deal of evidence that partnering with the private sector for the installation, operation and maintenance of our water and sewer systems makes great sense. Without the private sector, I would hate to think of where our industry would be today.

When the first water lines were installed in this province, the pipes were probably made by the utility employees out of wood, most likely. Not that many years ago, the utility staff would definitely have installed the pipe. Today private industry produces the products that we use. They invest great sums of money to develop new and better products for our use. Today privately owned contractors like Henry Heyink Construction install the systems' pipes and appurtenances with expensive, specialized equipment designed to do what water main contractors do. They employ very well educated and specialized people to manage the installation of these systems. Private industry performs many annual maintenance duties for utilities such as hydrant maintenance, swabbing, cleaning, chlorination etc. Today the private sector installs the water meters, reads the meters, even sends the utility bills to the customer. The private sector is involved in virtually every aspect of the water and sewer industry except one: ownership. As previously stated, this should be avoided.

We believe that Bill 175 will help provide the funding necessary for both the public and the private sector to face the issues and together find the best, most cost-effective solutions. Henry and I and our respective companies are proud members of the Ontario Sewer and Watermain Construction Association. We are aware that OSWCA has made suggestions for strengthening the bill. We support these amendments.

First, full cost pricing should be legislated as mandatory for all municipalities. While we agree with the concept that there should be some flexibility in how they achieve this goal, we do not think there should be any flexibility about full implementation of full cost pricing. Second, there should be a specific date set for compliance. A phase-in period of five to eight years will help municipalities through the transition to full cost pricing and protect the consumer from undue rate hikes. Third, we think the legislation should entrench a user-pay principle and water meters should be mandated. Fourth, we believe the legislation should include a precise definition of "full cost pricing." This will ensure a level playing field for all consumers and municipalities.

Thank you again for the opportunity to address the committee and we welcome your questions.

The Chair: Actually, you have timed it almost to the second, to take the whole 15 minutes, but we appreciate the perspective that you brought to the committee here today. Thank you for your comments.

ONTARIO WATER WORKS ASSOCIATION, WATER EFFICIENCY COMMITTEE

The Chair: Our next presentation will be from Ontario Water Works Association Water Efficiency Committee. Good afternoon. Welcome to the committee.

Mr Ken Sharratt: Good afternoon. My name is Ken Sharratt. I am chair of governmental relations for the Water Efficiency Committee of the Ontario Water Works Association. Our committee is a multidisciplinary group of volunteers drawn from municipalities, government agencies, manufacturers of water efficiency equipment and consultants. We are dedicated to advancing water use reduction by influencing government policy and by promoting water-efficient technologies and practices.

Several of the members of our committee are also tied in with the American waterworks water efficiency committee and present papers and attend conferences in the US, so they have generally a pretty good idea of what's going on.

Our committee actively promotes water-efficient approaches by publishing articles in the Ontario Water Works journal entitled Pipeline, and organizing a panel on water efficiency at the annual Ontario Waterworks conference. It also organizes one-day workshops from time to time, including one that's being organized today with the Canadian Water and Wastewater Association, entitled Developing Effective Standards for Water Use and Efficiency.

Today, I propose to limit my remarks to the conservation aspects of water management. We support the presentation made by the Ontario Water Works Association and the Ontario Municipal Water Association last week. However, I don't intend to take questions on those submissions.

I would like to say that we strongly support the intent of Bill 175 to require full cost pricing in the water and sewer bill. However, we have some concerns about the meaning of "full cost pricing." We would like it made clear in the bill that it includes water efficiency.

I would like to use the terms "water efficiency" and "water conservation" interchangeably in this presentation, because essentially they are the same thing, at least the way we think about them. Bill 175 is entitled the Sustainable Water and Sewage Systems Act, 2002. In looking at the bill, we could find no reference to water conservation or to water efficiency. We feel this is an unfortunate oversight. It is our view that water efficiency should be part of any definition of full cost pricing. Otherwise, we may have full cost pricing for water-inefficient and potentially non-affordable services.

We feel that water efficiency will become a much

more important issue in the near future. Water bills are expected to increase in response to various water safety legislative initiatives that have been taken or are being taken by the province. Consumers will want to be assured that if they are paying more, then the services that they are paying for should be efficient and equitable. This has been the experience in the UK since the current regulated industry was established. The UK has a very active water efficiency program that has emerged over the last few years.

Water efficiency has the potential to pay important dividends. First, demands on sensitive aquifers can be reduced from what would otherwise have occurred. More water may be left in streams to sustain wildlife or could be freed up to sustain additional numbers of people in the future.

The second dividend is the cost saving that arises when future capacity expansions can be delayed for a number of years and the existing facilities can be used more efficiently. This results in large savings in capital expenditure, and these savings will be reflected in less costly water bills.

We would like to make some specific suggestions for the inclusion of water efficiency in Bill 175. Prior to that, I would like to set the stage for our proposals by reviewing the current state of Ontario's water use efficiency.

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Water use in Ontario, like that in much of Canada, is among the highest in the world. In a recent UK report, Canada's per capita water use ranked highest of 25 countries from Europe, Asia and Australia. Its water use was higher than that of the US, was triple that of Germany and nearly 2.5 times that of France. Within Ontario, there is a wide range in the water efficiency of the systems. These range from a low of 116 to a high of 987 litres per capita for residential use in southern Ontario, with an average of 266. These usage figures suggest that there is much scope for improving water efficiency, and that's set out in a little more detail in appendix 1.

There are some specific factors in Ontario that contribute to high and variable water use. One, as the previous set of speakers alluded to, is the absence of universal metering. According to a survey done by Environment Canada in 1996, a third of all water systems in southern Ontario were not metered. This is set out in more detail in appendix 2. Most interestingly, this figure rises to 70% for systems with a population of 1,000 to 2,000 and 45% for communities of 2,000 to 5,000. The same survey reveals that, on a per capita basis, residential users in metered systems use 27% less water than residents in unmetered communities. Again, that's drawn from a wide survey across the province. Users in the small metered systems use about a third less than residents in unmetered systems. In northern Ontario, 67% of the systems are not metered. The residents in northern Ontario, in those systems that were metered, used 36% less water than those in a non-metered system.

No doubt one of the main reasons for the difference is that in all unmetered systems, a flat rate is used: all users pay the same amount regardless of water use. This encourages high usage, and in addition, there's an inequitable aspect to the flat rate. The rate is based on the assumption that everyone uses the average. Those who use less than the average, such as singles, couples, seniors or frugal water users, pay more than they should and in effect subsidize those who use a lot of water. To properly implement full cost pricing and a fair system of user-pay, metering should be undertaken by all systems.

A second issue is unaccounted-for water, including leakage. This was referred to by the previous speakers as well. The most recent survey done in Ontario shows that leakage ranges from 2% to 42%, with an average in the 15% range. Again, this suggests a good deal of scope for improvement.

A third reason why water efficiency hasn't been as apparent as it should be, in our view, is that there has been limited financial support for water efficiency measures. Past government grant programs have generally not provided for water efficiency studies, metering or other such initiatives, whereas these programs have provided funding for new capacity. As a result, it did not make economic sense for utility managers who needed additional capacity to consider water efficiency investments. The 1994 program was the exception, and that has led to the creation of two or three large water efficiency projects and it's developed a group of knowledgeable people in the province that can be built on.

The fourth consideration we have is that not all the costs of building and operating water and sewer systems are included in the water bill. It's estimated that about 65% of the cost in fact is recovered that way. This means that water and sewer bills are lower than the cost of providing the service, and these lower costs discourage actions and investments that would result in more efficient use. For this reason we support the position that, as a general rule, grants are not a good way to financially assist the water industry.

No doubt implementing full cost recovery, including water efficiency and infrastructure renewal, will raise water rates in the next few years. I've recently been involved in some studies that show an increase of about 40% to 70% over the next four years. It seems to vary from system to system, without any particular pattern. If we look at the higher number, we have a municipality here where the water bill will increase from \$250 in 2001 to about \$424 in 2005. That's for a somewhat less-than-average household, using 218 metres per year. The bill would work out to about 60 cents per person per day, or about \$1.20 a day for a couple. These increases do not seem that onerous on an overall basis and certainly not in an international context. The higher rate should spur the adoption of more efficient use and investment in water-efficient technology. This will help reduce use and generally make the system more efficient.

However, there will be groups of people that find the increases a hardship. Water efficiency can help people

cope with higher rates, because metering allows customers to pay only for what they use and it provides them with an opportunity to take action to reduce their water use. So singles, couples, and frugal users, as I mentioned before, would benefit from metering and be better able to manage their water bill.

In summary, we contend that water efficiency can make Ontario's water systems more efficient, less costly and sustain the resource while helping to mitigate the burden on those who have the least ability to pay. In order to ensure that water efficiency is a part of Ontario's full cost strategy, as is proposed in Bill 175, we make the following recommendations:

(1) That water efficiency and conservation be mentioned in the preamble to the bill. We feel that it should be clear that efficiency is a key component of sustainable water and sewer service delivery in Ontario.

(2) That water efficiency should be mentioned as one report requirement for the regulated utility, as set out in subsections 3(2) and 4(2). This would set the stage for including in the regulations the incidence of such things as leakage, the incidence of metering, inequitable pricing structures and other such measures.

(3) That water efficiency improvement costs be made a legitimate item for inclusion in the description of full cost pricing in subsections 3(4) and 4(4).

(4) We would recommend that the reports, at least the water efficiency components, be made public, with a view to providing benchmarks that will reassure users that their systems are efficient and encourage the managers of less efficient systems to improve their water efficiency.

(5) While we do not favour grants, if regulated utilities are required to provide assistance to low- or fixed-income groups, we feel that water efficiency should be included as one of the assistance measures.

(6) We have concerns about subsection 9(5), which could result in a restriction on the maximum charges for water and sewage. This may impede the ability of a regulated utility to make the necessary investments, such as meters, leak reduction or fixture replacement, that would make the system more efficient.

Thanks again, Mr Chairman. I'd be happy to answer any questions your committee may have.

The Chair: Thank you very much. That gives us about two and half minutes; this time I'll give all the time to the official opposition.

Mr Bradley: I saw a cynic write a letter to one of the newspapers the other day regarding efficiency; it wasn't specifically about water. I've heard this from people before, and I want you to deal with that and persuade them it's not the case. The thinking is that if you reduce your consumption, your bill is going to be reduced. The cynics make the point that it still costs money to operate the system, so the per-unit cost will in fact increase. We see this happening, for instance, with sewer systems, where the people within let's say a regional municipality will reduce the amount of sewage going into the system, yet the per-unit cost, whether it's a per-gallon or per-litre

cost, goes up. You would contend that that wouldn't be the case. Is that correct?

Mr Sharratt: I think what that suggests is that there's a confusion between the rate and the water bill. Rates go up and water bills go down with water efficiency. If it's a normal situation, if you come into a community and do some water efficiency measures, costs will not go down very much; they might drop by 15% or 20%. But the real savings from water efficiency are in the situations where you can postpone a large capital facility. In those situations, the savings are very large.

Mr Bradley: This is, by the way, an excellent presentation. It's the first one that's dealt exclusively with water efficiency; others have made reference to water efficiency as being important. This is excellent indeed, with some suggestions on how the legislation might be improved.

When I look at the metering, you would recommend then that except perhaps in situations where it's impossible to do so, and there are a few of those, you would like to see metering everywhere in the province.

Mr Sharratt: That's right. We strongly recommend that.

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Mr Bradley: There is a problem, a dilemma. As an environmentalist, as a person concerned about water efficiency and so on, I also believe that the full cost should be reflected in the price we pay. Nevertheless, there are people out there being hit with all kinds of new costs and who are on fixed or low incomes and will have difficulty. Perhaps they're a family of five or six people and they'll be hit with these costs. You made reference to the fact that there's a way, through efficiency, to provide some assistance to them. How would that work?

Mr Sharratt: What I was saying there was that if the people are metered and they discover that their water bill is a problem, at least they can take some actions to reduce their water use.

Mr Bradley: I think the government, when talking about putting a cap on the cost, was looking at circumstances that where you have very small municipalities or water systems, it would be absolutely prohibitive to charge that. What will we do with those?

Mr Sharratt: I think those fall into another class of problem. It would be very hard for water efficiency to deal with that. One of the studies I referred to did have that situation, where water bills were over \$1,000; that was a problem. I don't think water efficiency can deal with that. Water efficiency can deal with a lot of the situations where you have people who are not paying incredibly onerous bills but are having problems. They can then deal with those problems by cutting back and making their water use more efficient.

Mr Bradley: You have suggested as well, as some others have, that leakage is a much more significant problem within a water system than perhaps the general public would anticipate and that metering itself would pinpoint that. Is that correct?

Mr Sharratt: That's right. It helps, because with metering you can tell how much water you've sold, you know how much water you've pumped, and it's a very simple matter then to do the calculation. The gap between the two is unaccounted-for water, some of which would be leakage, some of which would be fire departments either putting out fires or practising, street cleaning, and sometimes municipal buildings get free water, so all of that's in there. But it allows you to start determining what's really going on in your system. That's another big plus for metering.

Mr Bradley: What about the situation where people are drawing raw water and are getting it free to use for commercial or business purposes? Do you have any recommendation in that regard?

Mr Sharratt: We didn't put that in this submission because that opens up another issue of charge for water. We've never really thought very much about it. I would think that's something that's worth looking at, but that's my personal view.

The Chair: Thank you very much. We appreciate your taking the time in coming before us here today.

ONTARIO PORK
ONTARIO CATTLEMEN'S ASSOCIATION
ONTARIO SHEEP MARKETING AGENCY

The Chair: Our next presentation will be from Ontario Pork. Good afternoon. Welcome to the committee.

Mr Chris Attema: Thank you. I believe Tonia has circulated the speaking notes. My name is Chris Attema. I'm the water quality specialist representing Ontario Pork, the Ontario Cattlemen's Association and the Ontario Sheep Marketing Agency.

First of all, I would like to thank the members of the committee for giving us this opportunity to share our views on Bill 195 today. I want to acknowledge right from the start that the perspective I bring representing the various commodity groups or commodity organizations is different from many of the other presentations you've heard today.

First of all, we recognize Bill 195 deals primarily, it's our understanding, with issues from pumphouse to tap. In that area of things, we certainly readily acknowledge that the pumphouse-to-tap issues are beyond our area of expertise. The perspective we've taken in looking at Bill 195 is that of owners, managers and stewards of the land base. Our primary interest is looking at the bill and its interrelation with other pieces of legislation that exist or are proposed and, from another perspective, how this particular bill interacts as part of an overall holistic approach to looking at water and resource management. We're taking that perspective.

From the outset, I emphasize that we support the purpose and objectives of this bill. We support the concept that the people of Ontario, both urban and rural—and the issue of the unique challenges for people in rural areas has been brought up by other organizations today—

are entitled to expect their drinking water to be safe. Clear standards, clear monitoring and reporting responsibilities and protocols and inspection authority for municipal drinking water systems and regulated non-municipal drinking water systems are positive steps in implementing the recommendations of the Walkerton report.

I want to focus my presentation on the action that can be taken to improve and clarify Bill 195, from our perspective, from the landowners' perspective. Specifically, I'd like to comment on the relationship of section 20, the general prohibition section, and section 77, which talks about inspections, to existing and proposed legislation and the linkage between Bill 195 and source protection plans.

First, I'd like to tell you a bit about Ontario Pork, who we are and what we do. Ontario Pork represents the province's 4,200 pork producers in many areas, including marketing, environmental issues, research, animal care, and quality assurance programs. In 2001, Ontario's pork producers marketed 4.75 million hogs, valued at \$813 million. The total pork industry is estimated to be worth \$5.6 billion and 35,000 jobs to Ontario's economy.

Ontario Pork is one of the founding members of the Ontario Farm Environmental Coalition. In this capacity, we have been working together with other agricultural organizations for over a decade to promote safe farming practices related to soil erosion, nutrient management, water quality and environmental farm plans. To date, over 20,000 farms across Ontario have voluntarily put environmental farm plans into place.

Our commitment to the environment extends far beyond the work with the coalition. Ontario Pork has committed over \$2 million to research on environmental issues facing our industry. Some research projects we've been involved with include compiling one of the largest on-line research databases on environmental and agricultural practices in North America, which is accessible to anybody: farmers, governments, public. We've funded a University of Guelph study of community perceptions on livestock and agricultural intensification. We've worked with the University of Guelph in developing the Enviropig, a biotech breakthrough which will reduce the environmental impact of manure produced by hogs. And we've worked with the University of Waterloo in taking a close look at issues like potential leakage from the concrete liquid manure storage systems that we have in place across the province.

On the specific affairs related to Bill 195, from our perspective, first I have a few general comments. Number one: water quality and land use clearly are inter-related. In many ways—this might be an oversimplification—water quality is a scorecard for how well or how poorly land and other natural resources are managed in a watershed. This act, Bill 195, recognizes and acknowledges that water users, through multiple-barrier protection, are entitled to certain rights. Our concern relates to the rights of our producers as stewards of the land.

Ontario Pork and its partners in the Ontario Farm Environmental Coalition encourage every farmer to take all necessary precautions to protect the environment and nature. We expect our producers to comply with the requirements of the Nutrient Management Act, the Ontario Water Resources Act and the Environmental Protection Act. We support action to deal with those who violate laws set out to provide protection for the environment and water quality.

In order to avoid duplication, jurisdictional conflict and unnecessary bureaucracy, we are suggesting that there should be specific reference to these acts and that farmers adhering to these acts should not be vulnerable to double jeopardy and prosecution under the general prohibition section expressed in section 20.

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Further, section 77 of the act gives provincial inspectors the ability to conduct inspections without a warrant or court order. At the same time, farmers strive for and achieve herd health and animal health objectives on their farms, at considerable cost, through complying with rigorous biosecurity protocols. If the area to be inspected is a farm it is imperative that inspectors be required to follow these same biosecurity protocols and that they be trained in these measures. We have expressed this concern in relationship to enforcement of the Nutrient Management Act as well.

Third comment: other organizations have expressed concern that source protection is not part of the Safe Drinking Water Act and have suggested that there is a need to guarantee that drinking water safety legislation supersedes other acts and regulations when jurisdictional conflicts arise. We continue to support Justice O'Connor's position that the Environmental Protection Act be amended to require the development of watershed source protection plans. This approach is more equitable in that it provides a means for balance and balancing the rights of the land steward with the right to clean water through multiple barrier protection.

On the issue of source protection plans, we are disappointed in the recent announcement of an advisory committee to guide the development of the provincial framework for watershed source protection plans, in that only two of the 17 members have an agricultural background. Since this is an issue that may impact landowner and land steward rights and responsibilities, we believe that representation should be proportional to the area of land managed. In many areas of Ontario the majority of the land is managed for agricultural purposes.

In conclusion, successful farmers in Ontario pride themselves on being stewards of the land. We know that the fundamental building blocks of agriculture are clean water and healthy land. It is important to our business that proper safeguards are put into place to protect water quality and the health of our families and communities. I think it's important to recognize that our business is unlike many other industries in that our producers live on their farms and drink the water that's under their farms. It

is critical that the needs of private landowners be balanced with the ability to invest and operate our farms and land with confidence and pride.

I would be pleased to answer any questions you may have at this time.

The Chair: Thank you very much. That gives us about two and a half minutes. I'll give the time to Ms Churley.

Ms Churley: Thank you very much for your presentation. I just have to ask: tell us about the Enviropig that actually is reducing, as you put it very politely, the environmental impact of manure produced by pigs. Does it mean they're going to produce less?

Mr Attema: The Enviropig is something where the efficiency rate of digesting—nutrient manure is a by-product, and any time there is a nutrient concentration in a by-product it reflects an inefficiency somewhere in the system. So there was an effort to identify things that can be done to improve the feed conversion—in other words, taking source protection a step further. It's looking at the feed efficiency and feed conversion within the animal itself and, through isolating certain genes, enabling certain genes' enzymes which benefit the digestion of phosphorus. So phosphorus that might otherwise be unavailable to the animal and would pass through is now used efficiently to produce the food and fibre products that we produce.

Ms Churley: So does this pig already exist out there or is it still in the experimental stage?

Mr Attema: It's in the experimental stage. We continue to provide a significant amount of funding to the university to continue the development of this.

Ms Churley: Very clever.

Just quickly, you mentioned the farmers being stewards of the land and living on the land. One of the biggest issues that I and I'm sure other members here hear about from constituents all over the province is intensive pig farms, called—and I know it's not liked—factory farms. A lot of the people come to work there and don't live there. I just want to know from you how we can work better, the community working with those large farms, because there are a lot of problems out there that we can't ignore.

Mr Attema: I think you have made a very good point. The industry is trying to continue to take steps to deal with concerns that are expressed by neighbours and citizens. We believe that by complying with the various rules and regulations that are on the table, things like the minimum distance formulas, the Nutrient Management Act, that provides some basis for some level of protection to the consumers and to neighbours. At the same time, we acknowledge that there are certain perceptions related to our industry and we are continuing to try to address proactive ways in which we can deal with those concerns.

The Chair: Thank you very much. We appreciate your coming before us today.

ONTARIO FARM ENVIRONMENT COALITION

The Chair: The last presentation this afternoon will be from the Ontario Farm Environment Coalition.

Mr John FitzGibbon: I can make this quite short because Chris did a very good job from the farmer's point of view. I have just a few points to add.

My name is John FitzGibbon. I am chair of the Ontario Farm Environment Coalition, which represents 39 different farm groups in Ontario, both producer groups and general farm organizations.

The farm community, by and large, is very supportive of all the initiatives that are currently being taken by the government in terms of trying to protect water resources in this province. When we look at the things that are going on, we see it ranging from the source problems in terms of nutrient management right through to the industry that provides water to our urban society.

We have a number of things that are of concern to us in the bill, and in particular subsection 20(1), which refers to prohibitions. We believe that if this indeed refers to the low concentrations of dissolved solids, particulates and bacteria that emanate from land use, this then means that almost any land use out there, urban and rural, will be in violation of this act, because it is almost impossible to generate water that does not contain these contaminants. We don't produce absolutely pure water from land.

As a result, we would hope that the legislation that governs the management of land in the proper sense, that protects the quality of water emanating from land, will be well referenced in this section; that is, the Environmental Protection Act, the Nutrient Management Act, the Pesticides Act, the Water Resources Act, and there are several others.

The act doesn't provide a whole lot for rural communities since the majority of rural residents are on private well and septic, permitted under different legislation.

Residents undertake a serious look at their water supply and their waste disposal systems. Testing, provision of ultraviolet and other purification mechanisms for rural wells, the water-taking permits they have, has expanded significantly. These facilities are governed under other legislation—the Water Resources Act, regulation 903, the health act and a number of others.

It is our hope that the regulations under this act will not duplicate or complicate the existing structure, but rather reinforce it.

We have a number of other areas of concern. We hope that conservation is an element that is embedded in the systems that deal with urban communities. The reason the rural community is concerned about this is that the well fields urban communities draw their water from are located in rural areas overlaid by agricultural land use. If the demand on rural lands to supply water to ever-increasing consumption in the cities continues to expand, we can only see more and more restriction on our ability

to produce food and to undertake other activities in our rural areas.

We very much encourage conservation in the cities so that the existing well fields can carry forward into the future for our water supplies.

We also encourage another set of actions that is related to this, and that is the granting of permits for rural subdivisions where they are placed on communal systems or where they are on individual services.

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The rural subdivisions pose a particular hazard since we have concentrations of effluent and water-taking in a single area. It is our strongest support that these developments take place in the rural communities, rather than out in the landscape, where they can add to the tax base and user base for these small communities, rather than being spread across the countryside in their individual permits. This, in turn, would give greater vitality to those communities, as well as the ability to fund their services.

Thank you very much for your time. If there are any questions that I could answer, I'd be pleased to do so.

The Chair: Thank you very much. You have left us lots of time for questions, about three minutes per caucus. We'll start with the government, if anyone has any questions.

Mr Miller: If you could just expand on your point about rural subdivisions and the tax base. I didn't quite follow you.

Mr FitzGibbon: We tend to find that the rural subdivisions going out in the communities, a lot of them are on individual well and septic, which is fine if the lots are large enough. But we're finding more and more that they aren't, mainly because those systems aren't maintained as they should be. So our feeling is that these urban-type developments should indeed be in the small communities. If they are then required to meet the standards for water systems, they would have a larger user base in which to spread those costs, whereas if they were in the rural countryside, indeed, they would not be subject to those costs, not subject to user fees because they are on private well and septic. They are permitted uses.

Mr Miller: So build them to municipal standards then, these rural subdivisions?

Mr FitzGibbon: Either they go on to communal systems or they should be located in the rural centres, the small towns.

Mr Stewart: I've still got some time left. It's interesting you suggest this. I've had hang-up for a number of years over these filter beds that we allow in all of these subdivisions now. Filter beds originally were designed for cottage country, where they did not have the type of products and the amount of product going into them as well. I guess this is one of the concerns that I have. You're right about either going on a communal water system in the country or concentrated on the larger lots. Back a few years ago the lots just kept getting smaller and smaller and smaller. Filter beds were used; they had difficulty locating the house because it could be too close to the well.

I appreciate what you're saying and I think you're probably right that some type of a communal system has to go. I don't know necessarily about the sewage end of it, but certainly water systems have to be considered. I know the municipality that I represented in municipal politics had three small, and that was one of the stipulations: you must be on the communal system which the township would take over after five years. But it had to be that—

Mr FitzGibbon: I guess one of the concerns, actually, of small, rural towns is taking over these systems which add additional costs.

Mr Stewart: I gather it's user-pay or—

Mr FitzGibbon: Yes, it's user pay. These systems indeed are preferred because they can be managed and monitored in a fashion which would provide an assurance of safety.

Mr Stewart: What does your group think about metering? We're hearing that more and more every time we go out on the hearings. I actually just found out what the price was. It's a pretty economical way of saving water, in my mind.

Mr FitzGibbon: Metering in an urban environment, where you have a network of pipes, is a very excellent mechanism of managing the costs and providing for cost recovery. It has been shown to be very effective. Our concern is that if we tried to meter private wells, it's very difficult technologically because of the types of pumps and pressure variations etc. In essence, we've had a system of water-taking permits for households and for rural industry like agriculture and they don't pay for the water but they pay for all the costs of the system—the well, the servicing, the fixtures and the disposal—unlike urban community people who are then on a system that is paid for out of the general tax base or user fees.

Our feeling is that we would like to see the urban communities more efficient. Then there won't be a demand or a bigger demand for well fields in rural areas, and that will reduce a lot of conflict.

Mr Peters: We heard John from Ontario Pork, and their concern that they hadn't been involved in the source protection advisory committees that had been struck. Is OFEC a member the source protection advisory committees?

Mr FitzGibbon: In fact, I'm an alternate for one of the members. If he's away, then I would come in and act for that person. But OFEC has not been asked to sit on that committee specifically.

Mr Peters: Do you show some of the same concerns that Ontario Pork does, that source protection is in many ways going to be targeting rural and agricultural communities, that there should be a greater voice on that committee so that it truly represents agricultural and rural communities?

Mr FitzGibbon: We have very able people on the committee, I would say: Ron Bonnett and John Masskont. We have representatives on the technical committee. It would be nice to have more people on the committee. It's always a good thing. Our concerns are

around what—for instance, we have two sets of rights. One set is land use rights, which we deal with through the Planning Act and the Municipal Act. The other set of rights is water rights, which we deal with through the Ontario Water Resources Act. Those two sets of rights can very much be in conflict. It's kind of like the interaction between oil drilling and agriculture in the west: you can have people mess your land up because they own the subsurface rights. In this case, we're not going to mess up the land, but what happens is that it imposes a restriction on the surface rights. No one wants to contaminate water, but there may be levels of protection that limit a person's ability to use their land and to, indeed for agriculture, earn a living from that land. Our concern is, if that's the case, that there be some means of compensating people for their loss of livelihood.

We are also concerned that indeed those mechanisms for protecting our well fields are such that they allow reasonable use of land.

Mr Peters: You just spoke of the conflict, and here we've got the Ontario Water Resources Act, we've got Bill 81 out there right now on round two of consultations, we've got 175 and 195 that we're discussing today, a source protection advisory committee, and probably down the road we're going to see another piece of legislation. Are you concerned at all about the potential for conflict that already exists between the Ontario Water Resources Act and the Municipal Act? Are we setting ourselves up for conflict with the variety of different pieces of legislation and accompanying regulations?

Mr FitzGibbon: We indeed are going to have a complicated system of management. What we're asking is that these different acts be cross-referenced in such a way that they reinforce and mutually support each other rather than being in conflict. It's kind of like saying that where you've got an overlap between acts, make sure they are referenced. Then nothing is going to fall through the cracks. If you have things where there are gaps, you have a different kind of risk that something might not be covered.

I think, given the seriousness of the challenge around managing water and land in Ontario, where you have are more and more people, it's not unreasonable to take a very careful look at it. If you look at the American system, again, they have very similar kinds of legislation to cover the various elements of the system, as do the British. I think we're coming to that stage. What we hope is that we are able to manage this network of legislation in a way that we neither have gaps nor conflicts. And that means, such as our recommendation, that these be cross-referenced. The particular concern is that we know which piece of the legislation takes precedence.

Ms Churley: That was more or less my question as well. I'll just ask a more general question around the challenges facing farms today, both big and small, and the pressure, particularly since Walkerton. I assume there is even more. What are the biggest challenges you are finding, from an environmental point of view, for farmers

today? Is it all of the different government legislation coming into being or public perception? What are your big challenges?

Mr FitzGibbon: If I look at agriculture today and the kinds of problems we have, first of all, this generation of residents of Ontario is probably the second generation that does not have a connection to the land. The majority of people have no idea what happens on a farm and we, as the agricultural community, haven't been the best at communicating with the urban folks to tell them what we do. So they think our industry is dirty and it smells bad. Yes, it does smell occasionally and it is a bit dirty, but it's not unclean. It produces food and, in an environment that's well managed, it can produce water that is of acceptable quality, or at least safe to drink when it's treated.

I don't think you were ever able to drink water in this province and be 100% sure that it was safe at any time, pre-settlement, post-settlement of Europeans, mainly because there were diseases in our wildlife populations that did cause problems for our native people. It's never been absolutely safe. And with more and more people in the province it becomes less and less safe, because we're all in a sense dirty animals.

Ms Churley: I keep bringing this up because I hear it from a lot of people, although I'm in an urban setting. What's changed these days are the very large, intensive farms.

Mr FitzGibbon: Yes, and it's a change that has been forced by economics and supported by technology. Where we have our issues is that it's not the farm countryside that people are used to. My mother's bank barn is 60 feet from a stream. It would not be allowed to exist, if there were animals in it, under today's regulations, yet the public thinks that's quaint and acceptable, whereas the big barn that's red tin at the back of the lot is unacceptable because it represents a different concept of agriculture.

It's an economic reality that we need to have those barns if we're going to produce food in the quantities and the quality that we have. Large operations get much more management. Those people who work in the barns who are not locals—now, I would suggest that they are; they're mostly our “diploma in agriculture” graduates from the university—indeed are people working in a food production system that is far more technically advanced than anything that happened in my mother's bank barn. But at the same time it's also environmentally controllable; it's larger.

I remember the planner from Huron putting it: “Which would you rather live beside, a coal-fired power plant or a nuclear power plant? Which poses the greatest risk?” On a day-to-day basis, that coal plant is belching its effluent into the atmosphere, and while it won't kill you immediately, supposedly, it can give you some problems. However, if something goes wrong—you get some steam and a bit of flame—they can put out the fire. The nuclear plant discharges relatively little, and as long as it's safe, everybody's OK. So which is better? Is it the big barn or the small barn; the continuous flow of effluents or one that might pose a risk if there were a serious problem?

Our argument is that with the legislation we see coming, with improved management and monitoring—particularly monitoring—we will see levels of safety that give us assurance that the disasters of the nuclear plant type don't happen. That's what we see. We want to be economically viable, we want to produce high-quality food in a controlled system and we want to be sure that the environment outside is not going to be put at significantly more risk—indeed, less.

The Chair: Thank you very much for coming before us here this afternoon.

With that, committee members, we stand adjourned until 3:30 on Wednesday, back in Toronto.

The committee adjourned at 1533.

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Mr Steve Peters (Elgin-Middlesex-London L)

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Third Session, 37th Parliament

Assemblée législative de l'Ontario

Troisième session, 37^e législature

Official Report of Debates (Hansard)

Wednesday 4 December 2002

Journal des débats (Hansard)

Mercredi 4 décembre 2002

Standing committee on general government

Sustainable Water and
Sewage Systems Act, 2002

Safe Drinking Water Act, 2002

Comité permanent des affaires gouvernementales

Loi de 2002 sur la durabilité
des réseaux d'eau et d'égouts

Loi de 2002 sur la salubrité
de l'eau potable



Chair: Steve Gilchrist
Clerk: Tonia Grannum

Président : Steve Gilchrist
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LEGISLATIVE ASSEMBLY OF ONTARIO

ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

STANDING COMMITTEE ON
GENERAL GOVERNMENTCOMITÉ PERMANENT DES
AFFAIRES GOUVERNEMENTALES

Wednesday 4 December 2002

Mercredi 4 décembre 2002

The committee met at 1541 in room 1.

SAFE DRINKING WATER ACT, 2002

LOI DE 2002 SUR LA SALUBRITÉ
DE L'EAU POTABLE

Consideration of Bill 195, An Act respecting safe drinking water / Projet de loi 195, Loi ayant trait à la salubrité de l'eau potable.

The Chair (Mr Steve Gilchrist): Good afternoon. I call the committee to order for the purpose of clause-by-clause consideration of Bill 175 and Bill 195. The first order of business is the clerk indicates that there was an amendment missed in the original filing. You'll find it as an amendment from the government for subsection 163(3) paragraph 7. I'd ask for unanimous consent to accept that.

Clerk of the Committee (Ms Tonia Grannum): For Bill 195.

The Chair: For Bill 195. Agreed.

SUSTAINABLE WATER AND
SEWAGE SYSTEMS ACT, 2002LOI DE 2002 SUR LA DURABILITÉ
DES RÉSEAUX D'EAU ET D'ÉGOUTS

Consideration of Bill 175, An Act respecting the cost of water and waste water services / Projet de loi 175, Loi concernant le coût des services d'approvisionnement en eau et des services relatifs aux eaux usées.

The Chair: With that, we will start off with Bill 175. Did you want to read those motions, Mr Dunlop?

Mr Garfield Dunlop (Simcoe North): Could I ask for unanimous consent that we just vote on them as the numbering of the bill?

The Chair: You would deem them to be read? Do we have unanimous consent that each amendment is deemed to be read? Agreed.

Just in the interest of keeping everyone's blood pressure in check, I will stand down any non-government amendments, so we will go out of sequence to that extent. That will take you to page 2, a government motion to section 1 of the bill. All in favour? Opposed? It's carried.

The next amendment is number 4, a government motion to section 2 of the bill. All those in favour? It is carried.

The next amendment you'll find as number 8 to section 3 of the bill. All those in favour? It is carried.

The next amendment is number 11. It's a government amendment to section 4 of the bill. All those in favour? It is carried.

The next amendment is number 14 to subsection 5(4) of the bill. All those in favour? It is carried.

Shall section 5, as amended, carry? It is carried.

The next amendment is number 17, a government motion to subsection 6(3) of the bill. All those in favour? It is carried.

The next amendment is number 18 to section 7 of the bill. All those in favour?

Clerk of the Committee: It's actually not a motion.

The Chair: I beg your pardon. That is out of order, so we will ignore amendment number 18. Mr Bradley?

Mr James J. Bradley (St Catharines): I'm glad you started right on time.

The Chair: Actually, the order was for 3:30. Your whip's office was called at 3:30.

Mr Bradley: Thank you very much.

The Chair: We have bypassed all the opposition amendments, so you haven't missed anything. In fact, the only amendments we have missed so far are NDP motions, so I have indulged them that we are not debating them until either the NDP arrives or we've concluded all other business.

So the next non-NDP amendment is number 22 to section 8 of the bill. Any comments? All those in favour? Opposed? It is carried.

Shall section 8, as amended, carry? It is carried.

The next amendment is number 23, a government motion to section 9 of the bill. Comments? All those in favour?

Mr Bradley: Can we have an explanation of the amendment?

The Chair: Are you asking—

Interjection.

The Chair: We've stood down all of yours. We are on number 23 on Bill 175.

Ms Marilyn Churley (Toronto-Danforth): Which one?

The Chair: Number 23.

Ms Churley: On 175?

The Chair: Any comments? Seeing none, I'll put the question. All those in favour? Opposed? It is carried.

At this point, we might as well revert to amendment number 1. We passed all of the NDP motions, Ms Churley, in deference to you. We have had a motion, though, just in the interests of time because of the time allocation, that the amendment is deemed to be read, so you don't have to read the amendment, but you're welcome to speak to it. Amendment number 1.

Ms Churley: Amendment number 1 in Bill 175, right?

The Chair: Yes, that's your section 0.1 of the bill.

Ms Churley: Right, OK. The reason why I added this is that the bill has no purpose and I always think it's a good idea to have a purpose to the bill to provide for the interpretation of what the bill's really all about. So I think this is an important piece that sets up what the bill is supposed to be doing.

The Chair: Any further comments?

Mr Dunlop: The government feels that the motion is beyond the scope of the bill.

Ms Churley: Could I have a recorded vote?

Ayes

Bradley, Churley.

Nays

Dunlop, Miller, Wettlaufer.

The Chair: That amendment fails.

The next amendment would be number 3. Ms Churley, again, it's deemed to be read, but you're welcome to speak to it.

Ms Churley: That's subsection 1(1)?

The Chair: Subsection 1(1) of the bill.

Ms Churley: What I've done here is added definitions of "source protection" and "sustainable development" which, as you will recall, was an issue that was raised quite a bit by a number of the deputants, that although this bill doesn't deal specifically with source protection, the definitions need to be added to full cost recovery and other aspects of the bill. So that's what this does.

The Chair: Any further comments?

Ms Churley: Recorded vote, please.

Ayes

Bradley, Churley.

Nays

Dunlop, Miller, Wettlaufer.

The Chair: That amendment is lost.

Shall section 1, as amended, carry? It is carried.

Amendment number 5, to subsection 2(2) of the bill.

Ms Churley: This one removes "private corporation" from the list of regulated entities that could run water systems. Again, I've added this because of the concerns

expressed by myself and a number of the deputants around the possibility—the reading of this bill suggests very clearly that the system could be privatized. This would eliminate that from happening.

Mr Dunlop: We believe, again, it's beyond the scope of the bill. A regulated entity is in effect a municipality.

The Chair: Further comments? I'll put the question.

Ms Churley: Recorded, please.

Ayes

Bradley, Churley.

Nays

Dunlop, Miller, Wettlaufer.

The Chair: That amendment is lost.

Shall section 2, as amended, carry? It is carried.

Number 6, section 2.1 of the bill.

Ms Churley: This is the same issue as the previous one. It states very clearly that private ownership of any waste water system or its underlying resource is prohibited. It deals with the whole concern and issue around privatization again.

1550

Mr Bradley: You'll notice it does not deal with operations; it deals only with ownership. So it is not precluding municipalities at this point in time from having their operations outside the scope of the municipal employees themselves, though that may well be the desirable part. It only deals with the ownership. Our view is that the government should be prepared to accept that.

Ms Churley: If I may, from comments I recall throughout the scope of the hearings, it seems to me that some government members did support that piece. There wasn't support for contracting out running the system but of actually owning it. This really clarifies and nails down that that couldn't be done.

The Chair: Any further comments?

Mr Dunlop: We won't be supporting it, because we do believe it's beyond the scope of the bill.

The Chair: Thank you. I'll put the question now. Ms Churley has asked for a recorded vote.

Ayes

Bradley, Churley.

Nays

Dunlop, Miller, Wettlaufer.

The Chair: That amendment is lost.

The next is number 7, section 2.2 of the act. Ms Churley.

Ms Churley: This idea came from CELA, the Canadian Environmental Law Association. I thought some of their suggestions were quite good in the context of not wanting poor people, as happened in Britain and other jurisdictions, to have their water cut off. It's a water

lifeline, a way of ensuring that all residents get a minimum amount of water that's necessary for life. It's a way of preventing cut-offs, and it makes the point that water absolutely has to be a right and not a commodity.

There are some concerns, especially going to full cost recovery, which we all agree on in principle, that there could be, without exactly having nailed down what we mean by that at this point and not having nailed down the commitment of senior levels of government to infrastructure and those costs, there's concern that the cost of water may be prohibitive for a lot of people. This would guarantee, as we've just done with hydro over the course of the winter, that people cannot and should not have their water cut off, because they need it to sustain life.

The Chair: Any further comments?

Mr Dunlop: It's beyond the scope of the bill for us.

Ms Churley: Pardon?

Mr Dunlop: We believe, again, it's beyond the scope of the bill.

Ms Churley: Oh.

The Chair: I'll put the question.

Ms Churley: Recorded, please.

The Chair: Ms Churley has asked for a recorded vote.

Ayes

Bradley, Churley.

Nays

Dunlop, Miller, Stewart, Wettlaufer.

The Chair: That amendment is lost.

That takes us to number nine. Again, Ms Churley, it's your amendment to Subsection 3(2.1).

Ms Churley: This one is about public consultation. Before the regulated entity prepares a report, there should be public consultations on it and the report must include the views of the public obtained during those consultations. This is just more to do with the public right to know and the public's right to be involved in the process and have their voices heard before a report is prepared.

The Chair: Any further comments?

Mr Dunlop: We believe the proposed wording is problematic the way it's written. The bill doesn't preclude any community or public consultation but does not require it.

Ms Churley: I didn't hear the last sentence.

The Chair: Do you want to repeat yourself?

Mr Dunlop: The bill doesn't preclude any community or public consultation, but it does not require it.

Mr Bradley: Surely what the member is looking for is that it be mandated that there be public consultation in this case and not simply saying it can happen. If you say it can happen, it's not necessarily going to happen, and I think what the member is looking for in her amendment is that there in fact be public consultation and that the public not be shut out.

Ms Churley: If I may, I'm not quite sure of the answer. At least this time the response is not, "It's

outside the scope of the bill." You would agree that this is within the scope of the bill and just clarifies quite specifically. I'm not quite sure why you would have been given the order not to support this. I think it's wrong, and I want to say for the record that the public consultation aspect is a very important part of these water bills. It's making it very difficult for me to support this bill, having these amendments all voted down. That's it. Recorded vote, please.

Ayes

Bradley, Churley.

Nays

Dunlop, Miller, Stewart, Wettlaufer.

The Chair: That amendment is lost.

The next amendment is yours again, Ms Churley. It would be number 10, to subsection 3(4) of the bill.

Ms Churley: This amendment amends the definition of "costs" to include source protection, conservation and the water lifeline I mentioned in a previous amendment, which was voted down. It's there to try to deal specifically with some of the issues raised by many of the people who spoke to the committee. Conservation authorities, some of the environmental groups and community groups all said it was a specific problem that source protection and conservation were not included. I'm just trying to remedy that obvious oversight in the bill.

The Chair: Any further comments? Seeing none, I'll put the question.

Ms Churley: Recorded vote, please.

Ayes

Bradley, Churley.

Nays

Dunlop, Miller, Stewart, Wettlaufer.

The Chair: Shall section 3, as amended, carry? Section 3, as amended, is carried.

Number 12 is to subsection 4(2.1) of the bill.

Ms Churley: This again deals with holding public hearings and public consultation on a report so that public views are obtained during those consultations and become part of the report. I make the same arguments again that it's important to have it written specifically into the bill so it's not at the minister's discretion but becomes part of the process.

I think public consultation—the public's right to know and their views to be heard—is really critical. I hope you'll accept this amendment. A recorded vote, please.

Mr Dunlop: I just want to say that the bill, again, does not preclude any community or public consultation,

but it's not required; you don't have to have it. We won't be supporting it.

Mr Bradley: The question I would ask of the government is why you're afraid of public consultation. Why would you not at least mandate the opportunity for public consultation? I know you say it doesn't preclude it, but there's no assurance that the minister is going to grant public consultation. What are you afraid of with public consultation? Why would you be afraid to have the public involved?

Mr Dunlop: I'm going to ask the legal department to answer this question. This is Jim Flagal and Paul McCulloch from the MOE legal department.

Mr Bradley: What possible legal reason could there be for this?

Mr James Flagal: I don't think there is a legal reason to preclude, but I can point out, first of all, that in the administration of the scheme itself, obviously public consultation would be carried out by the regulated entity, which is a designated municipality under section 2, when they're preparing these plans or reports.

Second, there is regulation-making authority under the act that specifically talks about the type of information that's to be included in full cost reports and cost recovery plans. One of the matters the regulations could deal with, for instance, is saying to the regulated entity, "You should include information on public consultations you conduct during the preparation of those reports or plans."

Mr Bradley: The problem with the regulations, of course, is that we have no input to the regulations. They're done behind closed doors by the government, and there's no assurance. If it is included in the legislation, as it would be through this amendment, then we would be assured of that public consultation. Without it, the public will be shut out. It is a very dangerous thing to shut the public out, because even after the government has heard the public, it still has the option to proceed as it sees fit, which is a government's prerogative. But I think it's very valuable to have that input, and I do not trust it being included in the bill simply by means of regulation.

The Chair: Any further comments?

Ms Churley: Recorded vote.

Ayes

Bradley, Churley.

Nays

Dunlop, Miller, Stewart, Wettlaufer.

The Chair: That amendment is lost.

As the Clerk has just pointed out to me that the time allocation motion specifies that at 4 o'clock all questions are deemed to be put, with no further debate, we will oppose all of the—

Clerk of the Committee: Just any division—

The Chair: Yes, any division required will be deferred until all remaining questions have been put.

The next amendment will be number 13, the NDP amendment to subsection 4(4) of the bill. All in favour?

Ms Churley: Can we have recorded votes on all of those, please?

Clerk of the Committee: It's at the end. They would just be stacked.

The Chair: They would all be stacked at the end. So if you're going to be saying that for every one, we might as well start here with them. On the other hand, if there are sections you do wish recorded votes on and sections you don't wish recorded votes on, perhaps you could indicate that now.

1600

Ms Churley: I'm not sure; that's the problem. I haven't had a whole lot of time to examine these. I'm trying to understand what's going here. It's time allocation—

The Chair: At 4 o'clock all questions are deemed to be put. We simply read the amendment number and subsection of the bill and vote.

Ms Churley: So what you're saying is, I can ask on each one as we vote whether it's recorded or not?

The Chair: You can, or you can simply indicate now that that's what you will be doing. It saves you from saying it that many times. So I should assume that?

Ms Churley: Yes, you should assume that.

The Chair: That takes us to amendment 13, the NDP motion on subsection 4(4) of the bill. These will all be recorded votes.

Ayes

Bradley, Churley.

Nays

Dunlop, Miller, Stewart, Wettlaufer.

The Chair: It is defeated.

Shall section 4, as amended, carry? It is carried.

Number 15 is an NDP motion, subsection 6(1), of the bill.

Ayes

Bradley, Churley.

Nays

Dunlop, Miller, Stewart, Wettlaufer.

The Chair: It is lost.

Number 16, subsection 6(1.1).

Ayes

Bradley, Churley.

Nays

Dunlop, Miller, Stewart, Wettlaufer.

The Chair: It is lost.
Shall section 6, as amended, carry? It is carried.
Number 19 is an NDP motion to subsection 7(1) of the bill.

Ayes

Bradley, Churley.

Nays

Dunlop, Miller, Stewart, Wettlaufer.

The Chair: The amendment is lost.
Number 20, an NDP motion to subsection 7(2) of the bill.

Ayes

Bradley, Churley.

Nays

Dunlop, Miller, Stewart, Wettlaufer.

The Chair: The amendment is lost.
Number 21, NDP motion on subsection 7(4) of the bill.

Ayes

Bradley, Churley.

Nays

Dunlop, Miller, Stewart, Wettlaufer.

The Chair: That amendment is lost.
Shall section 7 carry? It is carried.
Number 24 is an NDP motion to subsection 9(2.1) of the bill.

Ayes

Bradley, Churley.

Nays

Dunlop, Miller, Stewart, Wettlaufer.

The Chair: That amendment is lost.
Shall section 9, as amended, carry? It is carried.
Number 25 is a government motion to section 10 of the bill. You're asking for a recorded vote for these ones as well, or just for yours?

Ms Churley: I'm not even aware—I haven't had a chance to look at the government motions. Can you give me a second here? Which one is it?

The Chair: Number 25.

Ms Churley: I'm going to abstain on this because I haven't had a chance to understand the implications, and there's no discussion.

The Chair: All those in favour? Opposed. It is carried.

Number 26 is an NDP motion to subsection 10(2.1) of the bill. This will be a recorded vote.

Ayes

Bradley, Churley.

Nays

Dunlop, Miller, Stewart, Wettlaufer.

The Chair: That amendment is lost.
Shall section 10, as amended, carry? It is carried.
Number 27 is a government amendment to subsection 11(4). All those in favour? Opposed?

Ms Churley: I'm in favour of that one.

The Chair: It carries.

Shall section 11, as amended, carry? It is carried.

Number 28 is an NDP motion to subsection 12(1).
Recorded vote.

Ayes

Bradley, Churley.

Nays

Dunlop, Miller, Stewart, Wettlaufer.

The Chair: That amendment is lost.
Number 29 is an NDP amendment to section 12(1.1).

Ayes

Bradley, Churley.

Nays

Dunlop, Miller, Stewart, Wettlaufer.

The Chair: That amendment is lost.
Number 30 is a government amendment to subsection 12(3). All those in favour? Opposed? It is carried.
Shall section 12, as amended, carry? It is carried.
Section 13 is a government amendment, number 31, to subsections 13(1), (2), and (3). All those in favour? Opposed? It is carried.

Number 32 is an NDP motion to subsection 13(1).
Recorded vote.

Ayes

Bradley, Churley.

Nays

Dunlop, Miller, Stewart, Wettlaufer.

The Chair: That amendment is lost.
Number 33 is an NDP motion to subsection 13(2).

Ayes

Bradley, Churley.

Nays

Dunlop, Miller, Stewart, Wettlaufer.

The Chair: That amendment is lost.

Number 34 is an NDP amendment to subsection 13(4).

Ayes

Bradley, Churley.

Nays

Dunlop, Miller, Stewart, Wettlaufer.

The Chair: That amendment is lost.

Shall section 13, as amended, carry? It is carried.

Shall section 14 carry? It is carried.

Amendment number 35 is a government motion to subsections 15(1.1), (1.2) and (1.3). All those in favour? Opposed? It is carried.

Shall section 15, as amended, carry? It is carried.

Shall section 16 carry? It is carried.

Amendment number 36 is an NDP motion to clause 17(1)(d). Recorded vote.

Ayes

Bradley, Churley.

Nays

Dunlop, Miller, Stewart, Wettlaufer.

The Chair: The amendment is lost.

Number 37 is a government amendment to subsection 17(2). All those in favour? Opposed? It is carried.

Number 38 is an NDP amendment to subsection 17(3). Recorded vote.

Ayes

Bradley, Churley.

Nays

Dunlop, Miller, Stewart, Wettlaufer.

The Chair: That amendment is lost.

Shall section 17, as amended, carry? It is carried.

Number 39 is a government motion to subsections 18(1), (2) and (3). All those in favour? Opposed. It is carried.

Number 40 is an NDP motion to clause 18(1)(d). Recorded vote.

Ayes

Bradley, Churley.

Nays

Dunlop, Miller, Stewart, Wettlaufer.

The Chair: That amendment is lost.

Number 41 is an NDP motion to subsection 18(3). Recorded vote.

Ayes

Bradley, Churley.

Nays

Dunlop, Miller, Stewart, Wettlaufer.

The Chair: That amendment is lost.

Shall section 18, as amended, carry? It is carried.

Shall section 19 carry? It is carried.

Number 43 is a government amendment to section 20. All those in favour? Opposed? It is carried.

Shall section 20, as amended, carry? It is carried.

Shall section 21 carry? It is carried.

Section 22: we have amendment number 44. It is a government motion. All those in favour? Opposed? It is carried.

Shall section 22, as amended, carry? It is carried.

Number 45 is an NDP motion to section 23. A recorded vote.

Ayes

Bradley, Churley.

Nays

Dunlop, Miller, Stewart, Wettlaufer.

The Chair: That is lost.

Shall section 23 carry? It is carried.

Number 46 is a government amendment to subsections 24(4), (5) (6), (7) and (8). All those in favour? Opposed? It is carried.

Shall section 24, as amended, carry? It is carried.

Shall sections 25 and 26 carry? They are carried.

Shall the long title of the bill carry? Carried.

Shall Bill 175, as amended, carry? It is carried.

Shall I report this bill, as amended, to the House? Agreed.

That disposes of Bill 175, which takes us to Bill 195.

Ms Churley: On a point of order, Mr Chair: I just want to say for the record that I was taking care of some business in the House and was a bit late in coming and discovered that most of the government motions had been dealt with before I got here. I just wanted to say, for the record, that I did not participate and was unable to participate in the discussion around these amendments.

The Chair: Consider that an indulgence. That probably would qualify as debate in our rules and we aren't supposed to have any of that, but your comments are now duly noted.

Ms Churley: Thank you very much for that opportunity.

SAFE DRINKING WATER ACT, 2002
LOI DE 2002 SUR LA SALUBRITÉ
DE L'EAU POTABLE

Consideration of Bill 195, An Act respecting safe drinking water / Projet de loi 195, Loi ayant trait à la salubrité de l'eau potable.

The Chair: Having changed personnel at the witness table, and if everyone has armed themselves with the appropriate amendment package—the clerk is handing out the amendment that was also dealt with at the start of the meeting as an addendum. With that, we will commence with Bill 195.

The first amendment is an NDP motion to section 1. A recorded vote.

All those in favour?

1610

Ms Churley: Wait. Are we under a time allocation for this as well? So there's no time for explanations for Bill 195?

The Chair: Yes. The time allocation motion that no later than 4 o'clock—

Ms Churley: What a joke this is. Well, a recorded vote.

Mr Bradley: If they could explain their amendments to me, the government amendments, they may be reasonable. In many cases they probably are.

The Chair: Well, such are the rules that the Chair is forced to abide by and, duly ordered by the House, I will start with NDP motion number 1. I am going to assume Ms Churley has the same interest in recorded votes.

Ayes

Bradley, Churley.

Nays

Dunlop, Miller, Stewart, Wettlaufer.

The Chair: That amendment is lost.
Shall section 1 carry? Carried.

Amendment 2 is an NDP motion to section 2. A recorded vote.

Ayes

Bradley, Churley.

Nays

Dunlop, Miller, Stewart, Wettlaufer.

The Chair: That amendment is lost.

Number 3 is a government amendment to subsection 2(1). All those in favour? Opposed. Carried.

Number 4 is a government amendment to subsection 2(1). All those in favour? Opposed? Carried.

Number 5 is a government amendment to subsection 2(1). In favour? Opposed? It is carried.

Number 6 is an amendment to subsection 2(1). All those in favour? Opposed? It is carried.

Number 7 is a government amendment to subsection 2(1). All those in favour? Opposed? It is carried.

Number 8 is a government amendment to subsection 2(1). All in favour? Opposed. It is carried.

Number 9 is a government amendment to subsection 2(1). All those in favour? Opposed? Carried.

Number 10 is a government amendment to subsection 2(1). In favour? Opposed? Carried.

Number 11 is an amendment to subsection 2(1). All those in favour? Opposed? It is carried.

Shall section 2, as amended, carry? Carried.

Section 3: number 12 is an NDP amendment to subsection 3(1). Recorded vote.

Ayes

Bradley, Churley.

Nays

Dunlop, Miller, Stewart, Wettlaufer.

The Chair: That amendment is lost.

Number 13 is a Liberal amendment to subsection 3(1). I'm going to assume a recorded vote.

Ayes

Bradley, Churley.

Nays

Dunlop, Miller, Stewart, Wettlaufer.

The Chair: That amendment is lost.

Number 14 is an NDP amendment to subsection 3(4). A recorded vote.

Ayes

Bradley, Churley.

Nays

Dunlop, Miller, Stewart, Wettlaufer.

The Chair: That amendment is lost.

Number 15 is a Liberal amendment to subsection 3(4). A recorded vote.

Ayes

Bradley, Churley.

Nays

Dunlop, Miller, Stewart, Wettlaufer.

The Chair: That amendment is lost.

Number 16 is a Liberal amendment to subsections 3(5), (6) and (7). A recorded vote.

Ayes

Bradley, Churley.

Nays

Dunlop, Miller, Stewart, Wettlaufer.

The Chair: That amendment is lost.

Shall section 3 carry? It is carried.

Number 17 is a Liberal amendment to subsection 4(1). A recorded vote.

Ayes

Bradley, Churley.

Nays

Dunlop, Miller, Stewart, Wettlaufer.

The Chair: That amendment is lost.

Number 18 is a Liberal amendment to subsection 4(2.1). A recorded vote.

Ayes

Bradley, Churley.

Nays

Dunlop, Miller, Stewart, Wettlaufer.

The Chair: That amendment is lost.

Number 19 is an NDP amendment to subsections 4(2.1), (2.2), (2.3), (2.4), and (2.5). A recorded vote.

Ayes

Bradley, Churley.

Nays

Dunlop, Miller, Stewart, Wettlaufer.

The Chair: That amendment is lost.

Shall section 4 carry? Section 4 is carried.

Shall section 5 carry? Section 5 is carried.

Number 20 is an NDP amendment to subsection 6(2). A recorded vote.

Ayes

Bradley, Churley.

Nays

Dunlop, Miller, Stewart, Wettlaufer.

The Chair: That amendment is lost.

Shall section 6 carry? It is carried.

Number 21 is an NDP amendment to subsections 7(1.1), (1.2), and (1.3). A recorded vote.

Ayes

Bradley, Churley.

Nays

Dunlop, Miller, Stewart, Wettlaufer.

The Chair: That amendment is lost.

Number 22 is a Liberal amendment to subsections 7(1.1) and (1.2). A recorded vote.

Ayes

Bradley, Churley.

Nays

Dunlop, Miller, Stewart, Wettlaufer.

The Chair: That amendment is lost.

Shall section 7 carry? It is carried.

Number 23 is an NDP amendment to section 8. A recorded vote.

Ayes

Bradley, Churley.

Nays

Dunlop, Miller, Stewart, Wettlaufer.

The Chair: That amendment is lost.

Shall section 8 carry? It is carried.

Shall sections 9 and 10 carry? Sections 9 and 10 are carried.

Number 24 is a Liberal amendment to subsection 11(1). A recorded vote.

Ayes

Bradley, Churley.

Nays

Dunlop, Miller, Stewart, Wettlaufer.

The Chair: That amendment is lost.

Number 25 is an NDP amendment to subsection 11(1). A recorded vote.

Ayes

Bradley, Churley.

Nays

Dunlop, Miller, Stewart, Wettlaufer.

The Chair: That amendment is lost.

Number 26 is a government amendment to subsection 11(1.1). All those in favour? Opposed? It is carried.

Shall section 11, as amended, carry? It is carried.

Shall section 12 carry? It is carried.

Number 27 is a government amendment to subsection 13(1). All those in favour? Opposed? It is carried.

Shall section 13, as amended, carry? It is carried.

Number 28 is a government amendment to subsection 14(3). All those in favour? Opposed? It is carried.

Number 29 is a government amendment to subsection 14(4). All those in favour? Opposed? It is carried.

Shall section 14, as amended, carry? It is carried.

Shall section 15 carry? It is carried.

Number 30 is a government amendment to subsection 16(2). All those in favour? Opposed? It is carried.

Shall section 16, as amended, carry? It is carried.

Shall sections 17 and 18 carry? They are carried.

Section 19: amendment 31 is a government amendment to subsection 19(5). All those in favour? Opposed? It is carried.

Shall section 19, as amended, carry? It is carried.

Shall section 20 carry? It is carried.

Section 21: there is an NDP amendment, number 32, to subsection 21(1). Recorded vote.

Ayes

Bradley, Churley.

Nays

Dunlop, Miller, Stewart, Wettlaufer.

The Chair: That amendment is lost.

Shall section 21 carry? It is carried.

Shall section 22 carry? It is carried.

Number 33 is an NDP motion, subsection 22.1. Recorded vote.

Ayes

Bradley, Churley.

Nays

Dunlop, Miller, Stewart, Wettlaufer.

The Chair: The amendment is lost.

Section 23: amendment number 34 is a—

Mr Dunlop: Excuse me, Mr Chair. I don't understand what we were just doing there for a second. Section 22, you—

The Chair: That would have been a new section 22.1, so by defeating the amendment, there is no need to then pose another question.

Mr Dunlop: OK. I'm sorry.

The Chair: No, that's fine.

Number 34 is a government amendment to section 23. All those in favour? Opposed? It is carried.

Shall section 23, as amended, carry? It is carried.

Shall sections 24, 25, 26, 27, 28 and 29 carry? Sections 24, 25, 26, 27, 28 and 29 are carried.

Number 35 is a government amendment to clauses 30(2)(a) and (b). All those in favour? Opposed? It is carried.

Shall section 30, as amended, carry? It is carried.

Number 36 is a government amendment to section 31. All those in favour? Opposed? It is carried.

Shall section 31, as amended, carry? It is carried.

Number 37 is a government amendment to section 32. All those in favour? Opposed? It is carried.

Number 38 is an NDP amendment to subsection 32(4.1). A recorded vote.

Ayes

Bradley, Churley.

Nays

Miller, Stewart, Wettlaufer.

The Chair: That amendment is lost.

Number 39 is a Liberal amendment to subsection 32(4.1). All those in favour?

Ayes

Bradley, Churley.

Nays

Miller, Stewart, Wettlaufer.

The Chair: Shall section 32, as amended, carry? It is carried.

Section 32.1 would be a new section, as amendment number 40 from the NDP. Recorded vote.

Ayes

Bradley, Churley.

Nays

Miller, Stewart, Wettlaufer.

The Chair: That amendment is lost.

Amendment 41 is a government amendment to section 33. All those in favour? Opposed? It is carried.

Shall section 33, as amended, carry? It is carried.

Number 42 is a government amendment to section 34. All those in favour? Opposed? It is carried.

Shall section 34, as amended, carry? It is carried.

Number 43 is a government amendment to section 35. All those in favour? Opposed? It is carried.

Shall section 35, as amended, carry? Carried.

Number 44 is a government amendment to section 35.1. All those in favour? Opposed? It is carried.

Number 45 is a government amendment to section 35.2. All those in favour? Opposed? It is carried.

Number 46 is a government amendment to section 35.3. All those in favour? Opposed? It is carried.

Number 47 is a government amendment to section 35.4. All those in favour? Opposed? It is carried.

Shall section 36 carry? It is carried.

Number 48 is a government amendment to section 37. All those in favour? Opposed? It is carried.

Shall section 37, as amended, carry? It is carried.

Shall sections 38, 39 and 40 carry? Sections 38, 39 and 40 are carried.

Number 49 is a government amendment to subsection 41(2). All those in favour? Opposed? It is carried.

Number 50 is a government amendment to subsection 41(3). All those in favour? Opposed? It is carried.

Shall section 41, as amended, carry? It is carried.

Shall section 42 carry? It is carried.

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Number 51 is a government amendment to section 43. All those in favour? Opposed? It is carried.

Shall section 43, as amended, carry? It is carried.

Shall section 44 carry? It is carried.

Number 52 is a government amendment to section 45. All those in favour? Opposed? It is carried.

Shall section 45, as amended, carry? It is carried.

Shall section 46 carry? It is carried.

Number 53 is a government amendment to section 47. All those in favour?

Mr Wayne Wettlaufer (Kitchener Centre): Whoa, 53 is an NDP motion.

The Chair: Is my chart wrong?

The Chair: Ah, the clerk is setting me up here. We would have had a constitutional crisis: the separation of the legislative staff from the reality of hiring and firing.

Interjection.

The Chair: Indeed. Thank you for noting that.

Number 53 is an NDP amendment to section 47. This will be a recorded vote.

Ayes

Bradley, Churley.

Nays

Dunlop, Miller, Stewart, Wettlaufer.

The Chair: That amendment is lost.

Number 54 is a Liberal amendment to section 47. Another recorded vote.

Ayes

Bradley, Churley.

Nays

Dunlop, Miller, Stewart, Wettlaufer.

The Chair: That amendment is lost as well.

Shall section 47 carry? It is carried.

Number 55 is a government amendment to section 48. All those in favour? Opposed? It is carried.

Shall section 48, as amended, carry? It is carried.

Number 56 is a government motion to subsection 49(1). All those in favour? Opposed? It is carried.

Shall section 49, as amended, carry? It is carried.

Number 57 is a government amendment to subsection 50(1). All those in favour? Opposed? It is carried.

Number 58 is a government amendment to subsection 50(4). All those in favour? Opposed? It is carried.

Shall section 50, as amended, carry? It is carried.

Shall section 51 carry? It is carried.

Number 59 is a government amendment to subsection 52(3). All those in favour? Opposed? It is carried.

Shall section 52, as amended, carry? It is carried.

Number 60 is a government amendment to subsection 53(3). All those in favour? Opposed? It is carried.

Shall section 53, as amended, carry? It is carried.

Shall sections 54 and 55 carry? Sections 54 and 55 are carried.

Number 61 is a government amendment to section 56. All those in favour? Opposed? It is carried.

Shall section 56, as amended, carry? It is carried.

Shall sections 57, 58, 59 and 60 carry? It is carried. Sections 57, 58, 59 and 60 are carried.

Amendment number 62 is an NDP motion to amend section 60.1. Recorded vote.

Ayes

Bradley, Churley.

Nays

Dunlop, Miller, Stewart, Wettlaufer.

The Chair: That amendment is lost.

Number 63 is a government amendment to section 61. All those in favour? Opposed? It is carried.

Shall section 61, as amended, carry? It is carried.

Shall sections 62, 63, 64, 65, 66, 67, 68 and 69 carry? Sections 62 through 69 are carried.

Amendment 64 is a government amendment to subsection 70.1. All those in favour? Opposed? It is carried.

Number 65 is a government amendment to subsection 70(4). All those in favour? Opposed? It is carried.

Shall section 70, as amended, carry? It is carried.

Amendment number 66 is a government amendment to subsection 71(3). All those in favour? Opposed? It is carried.

Shall section 71, as amended, carry? It is carried.

Shall sections 72, 73, 74, 75 and 76 carry? Sections 72 through 76 are carried.

Section 77. The first amendment is number 67. It is a government amendment to subsection 77(2). All those in favour? Opposed? It is carried.

Number 68 is a government amendment to subsection 77(2), subparagraph 4 ii. All those in favour? Opposed? It is carried.

Number 69 is a government amendment to subsection 77(2) paragraph 5. All those in favour? Opposed? It is carried.

Number 70 is a government amendment to subsection 77(7). All those in favour? Opposed? It is carried.

Shall section 77, as amended, carry? It is carried.

Shall section 78 carry? It is carried.

Number 71 is a government amendment to section 79. All those in favour? Opposed? It is carried.

Shall section 79, as amended, carry? It is carried.

Number 72 is an NDP amendment to section 79.1. This will be a recorded vote.

Ayes

Bradley, Churley.

Nays

Dunlop, Miller, Stewart, Wettlaufer.

The Chair: That amendment is lost.

Shall sections 80, 81, 82, 83, 84, 85, 86, 87, 88, 89, 90, 91, 92, 93, 94, 95, 96, 97 and 98 carry? Sections 80 through 98 are carried.

Number 73 is an NDP amendment to section 99. It will be a recorded vote.

Ayes

Bradley, Churley.

Nays

Dunlop, Miller, Stewart, Wettlaufer.

The Chair: That amendment is lost.

Shall section 99 carry? It is carried.

Shall sections 100 and 101 carry? They are carried.

Number 74 is a government amendment to subsection 102(4). All those in favour? Opposed? It is carried.

Shall section 102, as amended, carry? It is carried.

Shall section 103 carry? It is carried.

Number 75 is a government amendment to subsection 104(3), paragraph 2. All those in favour? Opposed? It is carried.

Shall section 104, as amended, carry? It is carried.

Number 76 is a government amendment to subsection 105(1). All those in favour? Opposed? It is carried.

Number 77 is a government amendment to subsection 105(1). All those in favour? Opposed? It is carried.

Number 78 is a government amendment to subsection 102(5). All those in favour? Opposed? Carried.

Shall section 105, as amended, carry?

Mr Norm Miller (Parry Sound-Muskoka): Excuse me, that was 105(2).

The Chair: That's what I said, didn't I?

Mr Miller: No, you said 102(5).

The Chair: It's 105(2). Those numbers are merely to help Hansard keep track in case they don't have the proper numbered amendment. Thank you, if I erred.

Shall section 105, as amended, carry? It is carried.

Number 79 is a government motion to subsection 106(1), paragraph 1. All those in favour? Opposed? It is carried.

Number 80 is a government amendment to subsection 106(3), paragraph 1. All those in favour? Opposed? Carried.

Number 81 is a government amendment to subsection 106(5). All those in favour? Opposed? Carried.

Number 82 is a government amendment to clause 106(6)(c). All those in favour? Opposed? Carried.

Number 83 is a government amendment to subsection 106(7). All those in favour? Opposed? Carried.

Shall section 106, as amended, carry? Carried.

Shall section 107 carry? It is carried.

Number 84 is a government amendment to section 108. All those in favour? Opposed? Carried.

Shall section 108, as amended, carry? It is carried.

Number 85 is a government amendment to subsection 109(1), paragraph 2. All those in favour? Opposed? Carried.

Number 86 is a government amendment to subsection 109(11). All those in favour? Opposed? Carried.

Number 87 is a government amendment to clause 109(12)(c). All those in favour? Opposed? Carried.

Number 88 is a government amendment to subsection 109(13). All those in favour? Opposed? Carried.

Number 89 is a government amendment to subsection 109(14). All those in favour? Opposed? Carried.

Shall section 109, as amended, carry? It is carried.

Number 90 is a government amendment to subsection 110(1). All those in favour? Opposed? Carried.

Number 91 is a government amendment to subsection 110(2). All those in favour? Opposed? Carried.

Number 92 is a government amendment to subsection 110(3), paragraphs 1 and 2. All those in favour? Opposed? Carried.

Number 93 is a government amendment to subsection 110(5). All those in favour? Opposed? Carried.

Number 94 is a government amendment to subsection 110(6). All those in favour? Opposed? Carried.

Number 95 is a government amendment to subsection 110(8). All those in favour? Opposed? Carried.

Number 96 is a government amendment to subsection 110(10). All those in favour? Opposed? Carried.

Number 97 is a government amendment to subsections 110(13) and (14). All those in favour? Opposed? Carried.

Shall section 110, as amended, carry? It is carried.

Shall sections 111, 112, 113, 114 and 115 carry? They are carried.

Number 98 is an NDP amendment to section 116. It will be a recorded vote.

Ayes

Bradley, Churley.

Nays

Dunlop, Miller, Stewart, Wettlaufer.

The Chair: That amendment is lost.

Number 99 is an NDP amendment to subsection 116(2). Recorded vote.

Ayes

Bradley, Churley.

Nays

Dunlop, Miller, Stewart, Wettlaufer.

The Chair: That amendment is lost.

Shall section 116 carry? It is carried.

Shall sections 117, 118, 119, 120, 121 and 122 carry? They are carried.

Number 100 is a government amendment to subsection 123(1). All those in favour? Opposed? It is carried.

Shall section 123, as amended, carry? It is carried.

Sections 124, 125, 126, 127, 128, 129, 130, 131, 132, 133, 134 and 135: shall those sections carry? They are carried.

The next amendment is number 101. It is an NDP amendment to subsection 136(2).

Ayes

Bradley, Churley.

Nays

Dunlop, Miller, Stewart, Wettlaufer.

The Chair: That amendment is lost.

Shall section 136 carry? It is carried.

Shall sections 137, 138, 139, 140, 141, 142, 143, 144, 145, 146, 147, 148, 149, 150 and 151 carry? Sections 137 to 151 are carried.

Number 102 is a government amendment, clause 152(1)(c). All those in favour? Opposed? Carried.

Shall section 152, as amended, carry? It is carried.

Number 103 is a government amendment, subsections 153(1) and (2). All those in favour? Opposed? It is carried.

Shall section 153, as amended, carry? It is carried.

Shall sections 154, 155, 156, 157, 158, 159, 160, 161 and 162 carry? Those sections are carried.

There is a new section, section 162.1. That is an NDP motion marked number 104. This is a recorded vote.

Ayes

Bradley, Churley.

Nays

Dunlop, Miller, Stewart, Wettlaufer.

The Chair: That amendment is lost.

Number 105 is a government amendment, subsection 163(3). All those in favour? Opposed? Carried.

Ms Churley: He was opposed.

Mr Dunlop: Just a second.

The Chair: No, I know what you were doing. That's OK. There were no other hands up so the vote was three to one.

There is now the addendum motion that was handed out. It is not numbered. It's a government motion to subsection 163(3), paragraph 7. All those in favour? Opposed? It is carried.

Shall section 163, as amended, carry? It is carried.

Number 106 is a government amendment to subsection 164(1). All those in favour? Opposed? Carried.

Number 107 is a government amendment, paragraph 164(1)(3). All those in favour? Opposed? Carried.

Number 108 is a government amendment, subsection 164(5). All those in favour? Opposed? It is carried.

Shall section 164, as amended, carry? It is carried.

Shall section 165 carry? It is carried.

Section 165.1 is an NDP motion marked number 109. A recorded vote.

Ayes

Bradley, Churley.

Nays

Dunlop, Miller, Stewart, Wettlaufer.

The Chair: That amendment is lost.

Shall section 166 carry? It is carried.

Section 166.1 is an NDP motion, number 110. A recorded vote.

Ayes

Bradley, Churley.

Nays

Dunlop, Miller, Stewart, Wettlaufer.

The Chair: That amendment is lost.

Shall section 167 carry? It is carried.

Section 168 is an NDP motion, number 111. A recorded vote.

Ayes

Bradley, Churley.

Nays

Dunlop, Miller, Stewart, Wettlaufer.

The Chair: That amendment is lost.

Shall section 168 carry? It is carried.

Shall section 169 carry? It is carried.

Shall the long title of the bill carry?

Mr Dunlop: Mr Chairman, on a point of order: I have a clarification and I'd like to have a five-minute recess to

just go over a couple of the motions—government motions 18 and 42. I'd like to have clarification on the status of them.

The Chair: We don't have the facility to do that, Mr Dunlop. The order of the House does not allow us to take a break.

Mr Bradley: That's in your own time allocation motion.

The Chair: Shall the long title of the bill carry? It is carried.

Shall Bill 195, as amended, carry? It is carried.

Shall I report the bill, as amended, to the House? It is carried.

Thank you all for your participation. The committee stands adjourned.

The committee adjourned at 1635.

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